ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

M E E T I N G

held at

950 Yonge Street
Toronto

on

FRIDAY JANUARY 18 1966

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ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

--- Meeting held at 950 Yonge Street, Toronto, Ontario, on Friday, January 18th, 1966.

PRESENT:

Mr. Ian Macdonald (in the chair)

Prof. Alexander Brady

Dean Richard Dillon

Prof. Donald Creighton

Prof. Paul W. Fox

Mr. George Gathercole

Dean W. R. Lederman

Mr. Harvey Perry

Mr. C. R. Magone

The Rev. Dr. Lucien Matte

Prof. R. C.McIvor

Prof. E. McWhinney

Prof. Meisel

Mr. Roger N. Seguin

Prof. T.H.B.Symons

Mr.D.Stevenson) Co-Secretaries
Mr.R.Farrell)

--- The meeting began at 2.15 p.m.

THE CHAIRMAN: Well, I think we are all here, gentlemen, with the exception of Harvey Perry who was going downtown for lunch and will be here shortly, I expect. I have apologies for absence from two members who are detained by illness - Professor Conway and Dr. Forsey.

Secondly, the materials for distribution. The package went out early in the week with a number of items, which at that time did not contain Dr. Frosey's Trent Lecture, but later in the week a second mailing contained Dr. Forsey's lecture and also the speech given by Mr. Robarts in Montreal last month. I do not know if everyone in fact received those two items before they came down here for this meeting, but they are distributed.

Finally, I think everyone has received today the descriptions of recent Montreal newspaper clippings in the three groups.

We have being reproduced, and it will be sent to you, Mr. Roblin's speech at the Seignory Conference to which we referred last week, and one or two other papers of interest which were also given at that conference which will be sent out.

I have one item I am not quite certain what to do about. Paul, you may have some

guidance for me. Actually I had hoped to find this from Dr. Forsey. You recall one of the things we requested was the St. Jean Baptiste from the Canadian Commentator. This is a booklet published by the same organization in 1964 talking about constitutional problems, which Dr. Forsey sent to me annotated in characteristic fashion. I was going to have it reproduced and sent out to you, which can be done, but I gather at some little expense. What I wanted to find out from Dr.Forsey or from you, Paul, was whether this thing was still available, in which case probably it will be cheaper to get some copies, if you think it is worth while.

PROF. FOX: Well, the item you have received from the Commentator is an abridgment of that.

THE CHAIRMAN: It is?

PROF. FOX: And it has got the essentials, so I would suggest you keep this in your office and then anybody who wants to borrow it can do so if they want to pursue it.

PROF. CREIGHTON: Michel Brunet's introduction, isn't that in there?

PROF. FOX: Yes.

PROF. CREIGHTON: With this historical introduction.

THE CHAIRMAN: How long is it?

PROF. FOX: I do not know. He did not sign it. There are two introductions, neither of which is more than six pages.

PROF. CREIGHTON: Isn't it signed? It may not be the one then. He is the one, I thought, did it for them.

PROF. FOX: I think he drafted the submission, and I really think we do have the essence of it.

THE CHAIRMAN: Very well. There are still two or three other matters that the Committee requested that are being chased down. One was the speech of Mr. Trudeau. The other was a speech by Mr. Lesage, I believe, on December 12th, which covered a lot of points of interest.

Then again, Prof. Forsey suggested a piece from the recent issue of Cite Libre, which we are also chasing down and trying to get those around shortly.

PROF. BRADY: Is that the review?

THE CHAIRMAN: The review of the B & B Commission. I assume we all saw Dr. Forsey's article in the Globe & Mail on opting-out and voting-in.

I think that covers the materials, unless there have been any other suggestions of items you would like to have or see.

The next item to report on was the general state of our research, and also the response to

some of the requests for research projects which we have sent out.

I thought I might read quickly the report which I submitted earlier this week to the Prime Minister, because it, I think, sums up the present state of affairs, and also will go on later in the afternoon to talk about our plans for this evening's meeting with the Prime Minister.

I reported first of all on the form in which we had been meeting, and the organization of our Committee into sub-committees, and the existence of the research policy sub-committee which had been acting somewhat in the capacity of an executive committee.

I said that at present we have the following resources at our disposal:

(a) A stock pile of basic research papers and studies bearing on various facets of the confederation problem.

(b) A number of half-formed resolutions, recommendations, impressions and instinctive feelings.

(c) Certain research projects in progress or contemplated.

(d) Several positions upon which there is not a unanimous view, but which could be put forward as policy alternatives as a basis of discussion by the government.

(e) Members of my own staff are developing an inventory of present Ontario policy, with a view to assessing the emphasis and the consistency in various areas against which new approaches or extensions could be developed.

(f) A special survey of the institutions and machinery of federal-provincial relations presently under preparation by Professor Brady for discussion in February.

I said that our problem now, I feel, is to bring these matters to a head quickly to elicit conclusions in a form that will be helpful to the government.

The enthusiasm of the Committee has been maintained at a high level. However, I believe we are at a state where the Committee needs to be assured that it is coming to grips with the proper issues and priorities. The members recognize that they are participating in a process that, if not unique, is unusual - the continuous process of advising on high policy from a position outside the government. For these reasons, I regard the meeting on Friday as highly significant, I said.

Then I went on to say:

"In more particular terms, the work of "the Committee has been as follows:

"1. Short papers, five of them;

"The provinces and international
"agreements." by Professor Laskin.
"The Supreme Court in a bi-cultural
"society" by Professor McWhinney.
"Cultural exchanges between Ontario
"and Quebec", by Professor Symons.
"The Constitutional Monarchy and the
"Provinces" by Dr. Forsey.
"A catalogue of exchanges between English
"and French Canada" by Father Matte.

The Prime Minister has copies of each of those papers.

"These studies have led the Committee
"into the following areas.
"(a) We have a staff study under way
"on the provinces' international
"agreement and activities, which is
"leading to basic conclusions of an
"interesting kind.
"(b) We are developing our basic
"resolution on the Supreme Court."

I will not read the next comment. It was a protective shot on the lawyers, problems of lawyers agreeing which, when one works in the government and is surrounded by lawyers, economists have a difficult time of it somehow, so I have to choose these opportunities when I can - however, good natured, nonetheless,

I assure you.

"(c) You have received the Committee's "recommendation for further cultural "exchange with Quebec"

As you know, that is even more imminent than the last time we met.

"(d) We have not discussed Dr. Forsey's "paper on the monarchy."

"2. Basic studies completed -

"(a) We have a highly useful paper "I believe, prepared on the proposals "for a constitutional assembly, "which was supervised by Dean "Lederman and which we believe to be "a subject of possible future concern.

"(b) A thorough assessment of the "briefs submitted to the B and B "Commission of interest and relevance "to Ontario problems, under the "supervision of Prof. Meisel."

Again the Prime Minister has copies of each of those.

"3. Basic studies under preparation

"(a) The paper on the development of "federal -provincial and inter- "provincial conferences over the "years is now being completed by "Professor Brady.

"(b) The various economic and
"fiscal papers have been difficult
"to conclude, covering such broad
"and diverse areas. However,
"members of the staff are polishing
"the final drafts of the following:
"(i) Economic Regionalism
"(ii) Economic and Financial
" implications of opting-out.
"(iii) Approaches to nationally
" co-ordinated economic policies.
"(c) Professor Fox is revising a
"paper which was prepared for the
"Committee on instruction in the
"French language in the Separate
"Schools of the province.
"(d) Our staff is now completing a
"survey of the present administrative
"use of French by Ontario governments
"and agencies.

"4. Recent proposals.

" The Committee recently agreed to
"undertake the following studies:
"(a) A short paper by Professor
"Creighton on the Canadian Senate.
"(b) A major background paper by
"Professor Watts of Qucen's
"University on Second Chambers

"in federal states.

"(c) A short paper on the issues "involved in the National Capital "District question. An invitation "has been issued to Professor "Rowat of Carleton University to "undertake this task.

"(d) A short paper by Professor "Fox on what the eventual status of "French Canadians and French in "Ontario should be.

"(e) The Committee has expressed an "interest in the possibility of "establishing a course for interpreters, "for example at Ryerson Institute.

"(f) The Committee will be undertaking "a systematic approach to the "associate state concept.

"5. From this background and their meeting "with you on Friday, the Committee hopes to "produce a more comprehensive package of "recommendations. Since our problems of "federalism must be viewed in the context "of the whole, the Committee would prefer "to view their recommendations in an "overall sense rather than submitting a "series of scattered proposals."

I think it would be useful to go over that

for the benefit of all members, to sum up before we go on to the details of the sub-committee.

PROF. FOX: May I just raise a couple of points in reference to myself?

THE CHAIRMAN: Yes.

PROF. FOX: I was a little astonished to hear I was revising the Leduc paper. I invited suggestions from the Committee members, and said I would consult with Mr. Leduc if there were further things they wanted followed up. I have not received any requests.

THE CHAIRMAN: That is what I meant by "revising".

PROF. FOX: That is rather a peculiar use of the term. However ---

PROF. CREIGHTON: Have you, yourself, any suggestions?

PROF. FOX: There are a few points that could be pursued yes, but I do not know whether it is worth it if no one here really feels there is anything in it that they are excited about.

THE CHAIRMAN: The only thing I meant there was that it had not been submitted to him, and I had understood from you that there was some polishing up that you would contemplate before putting it in.

PROF. FOX: There might be an addenda to do. I don't think it should be re-written.

I don't think we should go to the expense of this, especially if members do not want to pursue it.

THE CHAIRMAN: I see.

PROF. FOX: The second item, I think the description of what I was supposed to be doing as investigation of the role or the position of the French Canadian in Quebec or French Canadians in general, is an error. I am supposed to be looking into the teaching of French in the Public School systems at some point.

THE CHAIRMAN: This is another question I was going to refer to.

PROF. FOX: But this other is news to me.

MR. STEVENSON: And the cultural committee.

THE CHAIRMAN: What was the document I got on that? Wasn't Paul doing the basic?

PROF. FOX: I think this is something your committee will raise later in their report. It is not in my name.

THE CHAIRMAN: I am sure this won't be inscribed in the records against you, Paul.

PROF. FOX: I don't mind it being inscribed. I just want you to know it is the firstI heard about it.

MR. PERRY: Just worried about your communications.

THE CHAIRMAN: I misunderstood that. As far as the study about the school question, this

is something we should consider. I understand from the Minister of Education that the Hall Committee or Commission (whatever it is called) which is studying the aims and objectives of education in Ontario, I believe from Grade 1 to Grade XII (subject to correction on that) but at least they are conducting a comprehensive look at the school system -- one of the things they are giving explicit attention to is this very question, Paul, and also in the manner in which they are conducting themselves, having public hearings and a great deal of public discussion on the question.

PROF. BRADY: When you say the question, French in schools?

THE CHAIRMAN: Yes, French in the schools, among their whole examination of the school system. This is an item they are giving explicit attention to.

In the light of that, we should perhaps consider the approach we want to take to this.

PROF. FOX: Well, if members of the full Committee here do not want to pursue it, why don't we discuss the thing in the research committee? It seems to be more suitable then to discuss it than here, unless anyone else wishes to make ---

THE CHAIRMAN: Any other views on that?

PROF. CREIGHTON: Has the cultural committee any recommendations to make about it?

PROF. FOX: On education? We have not investigated, we have not initiated the studies we were going to initiate in this field, so that it seems to me if you are going to undertake it as a detailed study it should be discussed in the research committee.

PROF. CREIGHTON: I understood the research policy committee to follow up suggestions which had been made by the other committees and to try and take executive positions based upon those recommendations. Since the cultural committee has made no recommendation respecting this, I do not suppose it is up to the executive committee to do anything about it.

PROF. FOX: This is a long standing suggestion, you know, that was made last fall.

THE CHAIRMAN: Precedes really the formation of the committee.

PROF. FOX: Preceded the formation of the committee. I do not feel strongly one way or the other about it, but itseems to me that unless members of this Committee are interested in discussing it, it is really a topic of research.

THE CHAIRMAN: I agree. Perhaps we should get a more thorough report than this verbal report which I have from the Department of Education and the Hall Commission on their terms of reference and the extent to which they will be examining it.

My point was that it does not follow that this Committee should not or would not want to express itself on this question at all.

PROF. FOX: Oh, no.

THE CHAIRMAN: But rather the question of whether we should undertake a basic research.

PROF. FOX: My understanding was that the Committee had originally some months ago approved the pursuit of this study, and then it developed that the Department of Education was investigating it.

THE CHAIRMAN: Right.

PROF. FOX: You were going to enquire into it and you have done it, and the Hall Committee is looking into it. It seems, therefore, to raise the question whether it is worth while our doing it. It does not seem to me to be the most effective means of discussing it in this committee unless members who are not on the research committee want to to discuss the thing.

THE CHAIRMAN: Well, if that is agreeable, we can refer that to the research policy sub-committee.

Now, I invited the new papers from the people to whom I referred, and I have not heard from Professor Rowat of Carleton. I have heard from Professor Watts, who is willing to undertake the study we have asked for, a major background

paper on second chambers in federal states; but he has three provisos. One, he said he could not undertake this before May and could not complete it until August. Secondly, he wanted to hire a graduate student for a month to assist him. Well, that is neither here nor there. The third point was freedom to publish material which he would have covered, freedom to publish it in a different form and without any attribution as far as the Committee was concerned. Here again, you may feel this should go to the research policy sub-committee, except Professor Watts would rather like some indication of our views about his position.

PROF. BRADY: Might I ask, has this been suggested by the constitutional committee?

PROF. CREIGHTON: Yes.

PROF BRADY: I wonder what it involves, in other words.

DEAN LEDERMAN: Perhaps I could throw a little light on this, Dr. Brady. In the field of information on the Canadian Senate, the making of the Canadian Senate story is pretty well in Dr. Creighton's "Road to Confederation". As to the Canadian Senate as it has performed from Confederation on, Dr. McKay has just revised his classic work on the subject, "The Unreformed Senate of Canada" in the Carleton Library series, so it has been brought up to date.

In that regard Dr. Creighton has undertaken to do a brief background paper pulling points together about the Canadian Senate, but I think he would rely heavily on his own work and on Dr. McKay's.

Now, Professor Watts' special field is comparative federalism, and he has a book coming out on the British Federations in association with Africa. It ought to be on the stands any day now, and this is true of some other areas of work, is it not, John? These files will show this information on second chambers, comparative information on second chambers in federal states.

In other words he has three-quarters of the material now that he would need for a general background paper on federal chambers in other federal states, federal states other than Canada.

PROF. BRADY: Would he bring out this in the book that he is about to publish?

DEAN LEDERMAN: I have not seen the manuscript of this book. Undoubtedly he does refer to second chambers in it.

PROF. MEISEL: Not too much.

DEAN LEDERMAN: I have no doubt there is a chapter on it or something. His files are much more extensive than what is in the book on the subject, and he can orient towards what we want, his files.

The point is, here is a senior scholar who already has three-quarters of the material assembled in his files. Even if we do have to wait until August, we will still get more than we would any other way.

PROF. MEISEL: Mr. Chairman, Mr. Watts spoke to me about this and I think that the concern about keeping rights in what he produces stems from his general interest in the field. He does not want to do work which he then cannot use later if he wants to do something where he would like to draw on this material. He wants to be free to do so, and I think that was all that was in his mind really.

THE CHAIRMAN: As I recall, we agreed generally at the beginning of this exercise last spring, that members of this Committee or other people doing work for us, would naturally want to make other use of it, and our only concern would be that it not be attributed to the Committee or referred to this source.

PROF. CREIGHTON: His request there actually comes under our ground rules already.

THE CHAIRMAN: That is right. I think the only question under discussion here is to what extent we have urgency for this work to be done earlier than August, and if it is at all realistic to assume in any event we could get anyone of

Professor Watts' capacity to undertake it.

DEAN LEDERMAN: Mr. Chairman, I have the impression that we may get a bit of breathing spell because of the imminence of a provincial election in Quebec. Is there not a lot of dragging of the feet going on across the border right now?

THE CHAIRMAN: That is true.

DEAN LEDERMAN: I think they are going to get a little time. For instance, I am told (I do not know how accurate it is) that Mr. Lesage would like to delay the report of the constitutional committee of his own Legislature, because it is bound to raise all kinds of controversy once it emerges.

In any event, if we want background papers from senior scholars, we have to meet the necessities of their time schedules.

THE CHAIRMAN: Absolutely.

DEAN LEDERMAN: This is something we have to go along with. The only alternative is research by junior people. Now, I think graduate students and so on can be very useful under supervision and doing the sort of thing Professor Watts wants a graduate student to do, but I think one thing we have learned is we need these papers done by senior scholars. That being so one has to pay attention to their obligations and wait if we possibly can.

THE CHAIRMAN: Well, what is the general consensus? Is the disposition to proceed with Professor Watts on these terms? Any dissent? Very well, thank you, then.

One final item in this preliminary report. Through the good offices of Dean Lederman we are going to have on ourstaff for the period of March to September, a young lawyer who is a graduate and gold medallist from Queen's University Law School, and will be going on to graduate studies in the autumn. He is going to come on our staff here in a special capacity in that period, and I think will be extremely helpful in undertaking a number of chores for us in which his particular background would be of advantage.

Going on to the agenda, I think, Paul, the principal work of the research policy committee at the December meeting was to discuss the plans and the arrangements for the January and February meetings, so we are here on the one point, and do you wish to speak to that?

PROF. FOX: It might be useful to the members to hear of one or two other items that we discussed at the policy research sub-committee, if you would like to. I will be very brief.

In attendance were Professors McDonald, McIvor, Creighton, Brady and Fox, and Mr. Stevenson and Mr. Farrell were also present.

The first two items have been mentioned by Ian dealing with details of meetings.

Item 3, -- Study by Dr. Brady. Dr. Brady outlined his study, which he had entitled "The Modern Federation and its Problems". He proposed to deal with this subject under the following headings, and there are nine headings. Is it your wish I mention these now to you?

PROF. BRADY: Mr. Chairman, I think I modified the scheme.

PROF. FOX: All right, perhaps I will let you speak to that subsequently and just add one or two words.

Dr. Brady suggested that the final report might be in the order of five thousand words. It was suggested that the emphasis in the study should be on points five to eight. That deals with the position of Quebec in the federal-provincial machinery rather than with the historical development of federal-provincial relations following World War II.

Item 4 concerned our February meetings. It was agreed that the sub-committee should meet throughout the day of February 18th to discuss Dr. Brady's paper which would be mailed to all members in advance of the meeting. It was agreed that, if possible, an all-day session would be held on Saturday, February 26th, in an informal

atmosphere away from offices. The staff would attempt to make arrangements for such a meeting.

This date, I believe, now conflicts with a meeting that some members of the Committee may attend, and we may wish to discuss this.

Item 5 -- Research contracts. It was agreed that some kind of contract or advance commitment should be made with all people doing research for the Committee, even with Committee members.

Item 6 -- Professor Creighton's Study. Professor Creighton reported that, after some preliminary reading on the proposed paper on the two-nation theory, he had come to the conclusion that such a paper should not be given the priority that he had originally envisaged. It was agreed by the Committee that Professor Creighton should not prepare such a paper at this time. Professor Creighton did say he was prepared to proceed with his paper on the Senate.

Item 7 and final item, dealt with a proposed visit by Claude Ryan. It had been suggested by one of the sub-committees, the cultural sub-committee, that someone from Quebec might be invited to speak to the Plenary Committee, give us information on what developments are occurring in Quebec. This idea was suggested, and, after considerable discussion in the research committee,

it was decided that decision on this proposed invitation would be postponed.

That completes the report.

THE CHAIRMAN: Thank you. Are there any questions or comments arising from the report?

Would you care to say anything at this juncture, Professor Brady, or would you prefer to leave it for the sub-committee reports?

PROF. McWHINNEY: Is this meeting on March 5th that you mentioned in your letter of January 14th ---

THE CHAIRMAN: Yes?

PROF. McWHINNEY: That is cancelled, was cancelled in favour of this meeting on February 26th?

THE CHAIRMAN: It is the other way around. You might report what happened there, Paul.

PROF. FOX: Well, the difficulty was that there is a conference in Quebec at Laval University on the weekend of February 26th, which several members of the sub-committee on culture in particular expressed a desire to go to on their own initiative. It is an academic discussion really of sociologists, political scientists and others. We thought it would give us an opportunity to meet people in Quebec and find out first hand the currents of opinion that were flowing. Also it has merit, of course, in its own academic category.

So we requested that the date February 26th be changed, and March 5th was proposed as an alternative.

THE CHAIRMAN: I perhaps put the date too positively in the letter, but I wanted to give the earliest possible indication that this was the date under discussion, so that people could make their plans.

The research policy sub-committee's thinking was that there should be some interval between the first examination of Professor Brady's paper and more mature reflection. That was the reason they separated the two occasions rather than having a two-day meeting on the 18th and 19th, as we once discussed.

Are there any new feelings on this question? Is that agenda agreeable?

PROF. FOX: It may be the date of March 5th comes as news to a number of people in your letter, and I think we pointed out that this was not taken as a firm date but was proposed as an alternative.

THE CHAIRMAN: Yes.

PROF. McWHINNEY: I think it would be helpful to fix it, Mr. Chairman, if we could today, because, as you know ---

THE CHAIRMAN: Absolutely.

PROF. McWHINNEY: In our profession one does start committing oneself to things in April.

THE CHAIRMAN: Absolutely.

PROF. McWHINNEY: I am quite happy with March 5th.

THE CHAIRMAN: As I say, I wanted to allude to that in my letter to give the earliest possible indication of the probability.

PROF. CREIGHTON: What is the first date again?

DEAN LEDERMAN: Friday, February 18th and Saturday March 5th.

PROF. McWHINNEY: Friday is the regular meeting.

THE CHAIRMAN: Yes.

PROF. CREIGHTON: It is quite an interval now, is it not?

PROF. FOX: Two weeks.

PROF. McWHINNEY: I suppose the alternative would be, with summer coming, for Friday the 18th, for Saturday the 19th.

THE CHAIRMAN: The alternative is to revert to the original suggestion of a two-day meeting on the 18th and 19th. It is based on a different type of philosophy of approach.

PROF. McWHINNEY: Although it could be two separate one-day meetings on successive days, I take it, with the regular agenda on the 18th and this special discussion on the 19th.

DEAN LEDERMAN: Something depends on how

long before the 18th the paper will be in our hands.

PROF. BRADY: That is a critical question indeed.

PROF. CREIGHTON: Yes. Perhaps we ought to settle that first.

PROF. BRADY: It would please me more if it would be on a later date, but I realize we are working on schedule, of course. I have discovered there are a lot of things in the Canadian federal picture.

PROF. CREIGHTON: It is only a little over three weeks from now. You have got to finish it, it has got to be mimeographed and it has got to be distributed.

THE CHAIRMAN: It is four weeks today working back. If it were to arrive a week in advance of the meeting, we would need it at least two or three days prior to it.

PROF. McWHINNEY: It is really one or the other date, is it not, the 19th or the 5th, and it really depends on Dr. Brady.

PROF. BRADY: I beg your pardon?

PROF. McWHINNEY: It isreally narrowed, since the 26th is out, it really narrows down to the 19th February or 5th March, and the decisive fact has got to be, I suppose, when the thing is ready -- your decision.

DEAN LEDERMAN: I stand by what I said earlier that if you want senior scholars to write, we must give them the time they have to have to do it.

PROF. CREIGHTON: Hear! Hear!

DEAN LEDERMAN: Perhaps we should not aim at the 18th or 19th; perhaps we should meet March 4th and 5th.

PROF. BRADY: It would certainly please me much better, because I foresee I shall have to do a good deal of work between now and the 18th of February; and it has to be sent out, or at least it is not much use to anybody unless it is sent out nearly a week before.

DEAN LEDERMAN: I do not think we should make him rush it, just for the sake of two or three weeks.

THE CHAIRMAN: No.

DEAN DILLON: What about delaying the two-day meeting the one month? I have tentatively blocked off 18th March. The 19th is still clear, but the other weekends are a problem.

DEAN LEDERMAN: What about 18th or 19th March as the days?

THE CHAIRMAN: Have a regular meeting in February on continuing matters?

DEAN LEDERMAN: Yes.

THE CHAIRMAN: And take the 18th and 19th

of March as a two-day meeting.

PROF. MEISEL: I would prefer that, Mr. Chairman. I think March 5th is very bad for me.

THE CHAIRMAN: Will these two consecutive days accomplish the type of objective we had in mind?

DEAN LEDERMAN: It will, providing we have the paper a few days before 18th March and can study it.

THE CHAIRMAN: Well, the reasoning in having a week's interval originally was to have discussions in sub-committee and then further reflection privately, and then come to the full day's discussion.

DEAN LEDERMAN: My thought would be that the important thing is for each individual to have the paper to study for a few days before any meeting in sub-committee or full committee, and then it would not matter if the two meetings overlap, one day after the other. That would be my reaction.

THE CHAIRMAN: I do not hear Professor Brady dissenting.

PROF. BRADY: No.

THE CHAIRMAN: From that delay. Is the proposal to have a regular meeting on the 18th February and the two-day special seminar, as it

were, on the 18th and 19th March, in which case we might simply proceed directly to this unnamed convivial location, have the two days there.

PROF. MEISEL: Good idea.

PROF. CREIGHTON: Presuming Prof. Brady's paper could be ready a little earlier than a few days before this.

THE CHAIRMAN: Yes.

DEAN LEDERMAN: The sooner the better, of course.

PROF. FOX: Just to throw another idea into the discussion pool, will we need a two-day meeting in March, assuming we are going to have our regular meeting on March 18th? Would itnot be possible to give over the whole day to Professor Brady's paper, say, in sub-committees in the morning and the plenary in the afternoon? I just throw that in as an idea.

PROF. BRADY: I am not sure that this may not be a better idea. There will be questions discussed in my paper that certainly can be discussed later and will be discussed later. I have a fear that a two-day meeting is going to be an attempt to concentrate discussion, to focus it in too much concentration, as to time. It would be better, I think, to have discussions in the sub-committees in the morning and then a discussion in the whole afternoon and the whole

Advisory Committee; and what is left over, no doubt, will be matters that will be discussed in a subsequent meeting.

THE CHAIRMAN: May I suggest then that we do the following for our timetabling purposes. We set aside our regular meeting day on 18th February, we set aside our regular meeting day on 18th March, and let us also set aside that evening and into the following morning. We might conceivably, with your paper, just be rolling nicely in the afternoon and wish we had an evening on it, in which case we could remain over and disperse on the Saturday morning, or remain a little longer and then refer this to the research policy sub-committee for an earlier meeting and hammer out the detail for this programme. Is that generally satisfactory? Do you have any reservations, Don? You look a little reserved.

MR. STEVENSON: Well, yes. I just felt that it is the feeling, as Dr. Brady said now and as he said in the research policy sub-committee, it would be desirable to have a little gap between the first discussion of the paper and the subsequent discussion, then all we have succeeded in doing is postponing this business for one month.

It did come up very much too in the research policy sub-committee that there was some feeling of

urgency about the whole matter; that we wanted to get down to this kind of discussion as soon as we possibly could.

If the paper were to be ready prior to the February meeting, then by all means we should use the February meeting to this avail. I am a little worried about the same process being repeated but one month later.

PROF. MEISEL: Could we leave it, Mr. Chairman, so that if the paper is ready in good time and we can discuss it at our February meeting, we will, unless there are other things that have to be settled immediately. On the other hand, if the paper is not ready, then we will proceed according to the plan that you outlined.

THE CHAIRMAN: Yes. Well, this really turns on you, Professor Brady, when you are prepared, I think.

PROF. BRADY: Well, there is no question that it would be a better paper if it were submitted on March 18th than on February 18th, much better.

DEAN LEDERMAN: I would think if the main discussion is in the March meeting, whether it is a one-day or two-day meeting, that my hope would be at least, say, ten days earlier in March we do have it in our hands. I think to have it in our hands a good period before any meeting we set, is more important than the

interval which occurs between meeting 1 and meeting 2 and discussing it. That is just my reaction, and this all points to March as the critical time.

THE CHAIRMAN: I share something of Don Stevenson's concern naturally, but my sense is that the arrangement proposed for the regular meeting in February and the Brady meeting in March 18th is perhaps the general wish of the Committee.

Are there any other items then of procedure? Paul, any other points there you need? If not, I think we should go directly now to the sub-committee reports.

MR. MAGONE: Is that settled then, Mr. Chairman? Our regular meeting in February, as I understand it.

THE CHAIRMAN: And in March -- February 18th, March 18th, with possibly a carry-over into the morning of the 19th.

The sub-committee reports. It occurred to me the other day that we had perhaps become fastened in the habit of a reporting order, that we should change on this occasion. Hence, the first report would be the cultural sub-committee, who deserve a bit more time, having been crowded so often into the end of the day.

Are you going to speak to that, Professor Brady, or would you like us to read it first?

PROF. BRADY: Whatever you like. Perhaps

I could read it if you wish.

THE CHAIRMAN: Yes, I suppose we might read through it together here.

PROF. BRADY: Would you like me to read it out first?

THE CHAIRMAN: Well, whatever you wish. We have nearly five pages.

MR. PERRY: No, two. Which report have you got?

THE CHAIRMAN: I am sorry, I was speaking of the report of the sub-committee on culture.

PROF. McWHINNEY: Two pages here.

PROF. CREIGHTON: "Statement of the Cultural Sub-Committee on the Status of French in Ontario".

MR. STEVENSON: That is by Professor Brady. That is just a second copy of something else, sorry.

THE CHAIRMAN: All right.

PROF. BRADY: You have not circulated this?

THE CHAIRMAN: I know, not the other one, just the two-page one. My curiosity got the better of me. Maybe the Chairman is going to be impeached or something.

PROF. BRADY: I might say, Mr. Chairman, and gentlemen, we had a pretty full morning in the sub-committee on cultural matters, and we have a compressed, as it were, statement, which came out of our discussions, and it is an important matter. We thought it wise to introduce it at this

stage so that it might be commented upon in the general Committee, and then we might be able to report upon it in some fashion or other this evening.

In other words, we are meeting the Prime Minister, and I think it is understood that it is essential that we should have something to say to him, something pointed and important. Now, the statement is as follows:

> "A distinguishing characteristic "of Canada is its bicultural and bilingual "nature. The committee is convinced that "the fuller recognition of this duality "is desirable to preserve Canadian unity "and maintain an identity different from "that of the United States. In view of "the current situation, bold measures are "needed to further this end, and Ontario, "which did so much to shape the Conferation "of 1867, can play a significant part in "initiating them.
>
> "Among the provinces outside Quebec, "Ontario has the largest population of "French ethnic origin. The sub-committee "is strongly of the opinion that, without "delay, everything possible should be done "to guarantee that French Canadians in "the province will no longer feel that

"they have fewer rights and cultural "opportunities than the English-speaking "population in Ontario and Quebec.

"We, therefore, recommend several "things. First, we recommend French be "recognized as an official language with "English in the Province of Ontario.

"Secondly, we appreciate that this "official recognition can be realized only "in a series of steps. We think, however, "that it might be accepted at once in the "Legislative Assembly.

"Thirdly, its recognition should be "sought as soon as possible in such areas "as education, the judiciary, departmental "business, administrative services, and "municipal institutions. The sub-committee "realizes that there are special difficulties "in recognizing French in these and other "areas. It, therefore, recommends that we "continue to study intensively the problems "of general applicability, identifying the "difficulties and working towards possible "solutions.

"We recognize that the enlightening "of the public on the need for this step "is imperative. This matter should also "be carefully studied.

"The sub-committee is convinced that "this formal recognition of bilingualism "by Ontario would have a profound effect on "the federation as a whole. It would "certainly elicit a prompt and favourable "response from Quebec, strengthen there the "moderates versus the extreme nationalists, "and help to combat a growing tendency even "among some responsible leaders in Quebec "to assume that only in a separate and "unilingual state can the culture of the "French Canadian survive. Ontario's example "would also help to break down a resistance "to bilingualism in other provinces. No "other province can take an initiative so "effective. None can exert on Quebec the "same persuasion. This concept of Ontario's "role is in harmony with views publicly "expressed by the Prime Minister of the "Province and promptly commended by the "French Canadian press. It is also in "harmony with the views submitted by many "Ontario organizations to the Royal "Commission on Bilingualism and "Biculturalism."

Now, that is the substance, Mr. Chairman, of our statement, and we naturally are anxious to have it discussed.

PROF. CREIGHTON: Mr. Chairman, what would the cultural committee propose should be done with this this afternoon by the Committee?

PROF. BRADY: Well, views expressed on it, favourable, unfavourable, details of it and so on.

PROF. CREIGHTON: Certainly the Committee could not conceivably adopt the principles enunciated in this brief statement this afternoon.

THE CHAIRMAN: May I ask, is this the complete report for today of the cultural sub-committee, or are there other matters also?

PROF. BRADY: No.

THE CHAIRMAN: This will be the report for the day?

PROF. BRADY: Yes.

PROF. CREIGHTON: I would say it is enough, Mr. Chairman. It amounts to a constitutional revolution in the province of Ontario.

PROF. MCWHINNEY: Constitutional revolution? You mean a cultural revolution.

PROF. CREIGHTON: A cultural revolution or constitutional revolution also.

PROF. McWHINNEY: I take it the step by step approach involves a definite choice of methods, but your third point quite obviously needs -- and the U.N. in its proceedings usually report as briefly as this, almost a series of resolutions - needs some filling out.

I think the crucial issue would be: what are the steps that you propose for recognition of biculturalism in education, the judiciary, departmental business? The Legislative Assembly business is obvious. I imagine judicial business is reasonably self-evident. What is meant in education for example? Is this Committee putting in -- this is a point our Committee discussed in connection with the method of reporting. Has the committee got some supplementary reference material that is being annexed to the report, containing such suggestions as to implementation?

PROF. BRADY: Yes. Well, the committee has been discussing in previous meetings the recognition of French language schools, the recognition of French schools extending the instruction, let us say, in those schools that are designated as French schools. It implies extending the instruction very largely into the grades beyond 9 and 10, I think. I think Mr. Seguin, who knows this very well, might like to comment.

MR. SEGUIN: I will comment on the French-speaking side, but I will not comment on what you intend to do on the public school. I will leave that to Professor Fox.

On the French-speaking side, we have been claiming for a number of years now more French in the secondary level. What was happening was

that you were getting your primary education nearly all in French, with the exception of certain science books and maths; but when you step up to secondary schools you were getting it in English.

Five years ago we did get permission to teach most of the subjects in French in 9 and 10 but we still have not got last year manuals that were coming out now.

We were permitted to teach French, Latin, Geography and History in 11, 12 and 13, but now what we wish to have is part of the science course in French -- not necessarily all, because we know that even in the French-speaking universities of Quebec some of the manuals are not available in French and some of the mathematics in French.

We are of the opinion also that for those to whom English will not be as important as others, that they should have a moderate English course, that is, that they would not have to study Shakespeare as intensively as some others who wish to continue into a better education subject or future university course and so on.

Now, for this we wish to have the secondary school recognized by the province. At the present time 9's and 10's belong to the primary schools, they are under the administration of primary schools, and therefore we get grants under the primary school grants, not secondary school grants.

As far as 10, 11 and 12, we have nothing available that is in public institutions where French courses can be given. The French-speaking people, for instance, pay for those years in 52 private schools in Ontario an average of $200 or $300 a year (those are day scholars, not boarders) although we still pay also the high school or collegiate Board rate. We still pay that tax. Then we are doubly taxed from the fact that we have to pay for our children into the private institutions.

Now, we have two bilingual universities, which we did not have. We had bilingual universities but they were not subsidized by the government until lately. Now they are fully subsidized by the government. We are dependent, if we want to have students in those universities, we need well-qualified pupils, and the only way to have them is through better secondary schools which are subsidized the same way as the primary schools.

PROF. McWHINNEY: I think those are eminently reasonable suggestions, and I would support them. I do not think, however -- and this comes back to a point we discussed in another context in the constitutional committee this morning -- I do not really regard them myself as reflections of your primary proposition, which is recognizing French as an official language.

This is why I think it might be better to state affirmatively what it is you are proposing, rather than trying to subsume under too general terms.

The matter of French as an official language in the Legislative Assembly, one assumes, means simply permitting speeches in French as in English; in the judiciary I assume it is the same; but your proposals on education, it seems to me, really only in a somewhat tenuous way relate to the status of French as an official language.

They demand really recognition of the possibility of bilingual or multi-lingual universities. I think that isa different point.

MR. SEGUIN: I was just speaking of education. If you wish, I will give you the reasons for the rest of it.

PROF. McWHINNEY: I am wondering if your recommendation though, is somewhat different from what the recommendations here purport to be, the business of official language.

MR. SEGUIN: I think I may say that I am a French Canadian from Ontario. I was educated in Ontario and I have lived in Ontario, and I intend to remain here.

While I might have asked for French to be recognized as an official language in this province - that may be a number of years yet to come, but

lately we have had many dealings with people in Quebec and I know their feelings today and I know what they intend to do, and these are leaders in Quebec.

They are of the opinion that if the French Canadians in Ontario, which is the largest number of them, are not on the same equal rights and have not the same opportunities as the English minority in Quebec, that something will be withdrawn in Quebec.

Now, I do not want here to fight the school question, because I have been fighting it with the Department of Education since 1948. I came here to try and save the situation, and if a province like Ontario does not give the leadership to the rest of Canada, well, I don't think it is worth sitting here, because we will not save it on the question of the Supreme Court of Canada, we will not save it on the Senate, or whether we should have three houses or four houses. We will save it only if the minority is given the same treatment in the rest of Canada as the English people are treated in Quebec.

I can tell you today there are at least three Ministers in the Lesage Cabinet that would not hesitate to withdraw those rights to the English minority in Quebec.

PROF. McWHINNEY: Would it be better then

to categorize the recommendation as to education as one of parity of educational rights for the French-speaking minority in Ontario, to those of the English speaking minority?

MR. SEGUIN: No, they will not accept it on that basis, on the educational. They want more than that. They want us to be considered in the judicial writing of statute laws, civic administration.

Last week in the city of Ottawa five aldermen asked to have French stationery at the expense of the city of Ottawa. It was refused. Well, this was picked up by five Quebec newspapers, and you should have seen some ofthe comments -- that those rights should be withdrawn in the Eastern Townships, for instance, to the English-speaking minority.

Now, some of you may think that it is not necessary for Quebec to have confederation. Maybe not, but if you do not keep Quebec in Confederation, Ontario will be the only one remaining, because the western provinces and the eastern provinces are only waiting for that to move to the United States.

MR. PERRY: I wonder, in the condition of a layman, if some expert could tell us just what is the constitutional or statutory right given the minority group, for example, under the

federal arrangements, under the national arrangements, and under the arrangements in Quebec. There is probably a very simple answer to this. I am just looking for some pretty basic information.

PROF. FOX: It is all in 133, Bill. Would you like to speak to that -- the language rights?

DEAN LEDERMAN: I think the strict position in the British North America Act is that the statutes and proceedings of the Legislature of the Province of Quebec and of the Parliament of Canada are to be in both languages, and the proceedings in the federal courts in both languages.

PROF. CREIGHTON: You may plead in the Courts of Quebec and in the Courts of Canada; you may speak in the Legislature of Quebec and the Supreme Court of Canada in French or English.

DEAN LEDERMAN: That is right, and the official parliamentary papers.

PROF. CREIGHTON: If any rights are withdrawn in Quebec, that means a constitutional revolution.

PROF. McWHINNEY: That is not in issue, though.

MR. SEGUIN: As you see, when they can go and make their own treaties with other countries ---

PROF. CREIGHTON: I don't think they are treaties in the ordinary sense.

MR. SEGUIN: And they can write to the United States and nobody is thrown out and no

constitutional crisis comes up; and when you have arrived at the point that a Minister can go to Ottawa and say that "I want all the baby bonus", you can consider they are still going pretty far.

MR. PERRY: Is the B.N.A. provision construed as giving a right to the English minority in Quebec ---

MR. SEGUIN: Yes.

MR. PERRY: To instruction in English, for example, in the schools?

MR. SEGUIN: Yes, it does.

PROF. CREIGHTON: There is no right in Ontario.

DEAN LEDERMAN: This is section 133.

MR. PERRY: I am just wondering what right it is that would be withdrawn and how it would be withdrawn.

PROF. McWHINNEY: In some ways the proposals on education seem to me broader than the issue of language, and I think these specific proposals on education you made eminently reasonable; but it seems to me linking it to language does not fully cover it, but to a very limited extent. It seems to me they are separate in character and perhaps account in this issue of language. You could realize it in the Legislature of the Province of Ontario or in the Courts. I take it, Bill -- let me express an opinion here -- I take it that subject to upholding against any

court claim that devolved in some sort of common law right, there would be nothing to stop Ontario passing legislation requiring equality of French for use in the Legislative Assembly. It would be open to the House, I take it, to rule simply as a matter of rules of the House, as a matter of law - I take it that would be all that they require. Possibly with the Courts this would not even take legislation, but it would be a matter of ---

PROF. CREIGHTON: Surely you would have to have legislation, because it would have to be made an official language in the Courts of record and the like, that they should be carried on in both languages henceforth, which would be an enormous change. An official language simply means that.

PROF. McWHINNEY: This is one of the reasons why in our own committe, I am suggesting one defines specifically what they want. The term "official language" has not a very precise connotation unless you start spelling it out in terms.

If what is wanted is the right to use the language in the courts, it occurs to me the Supreme Court of Ontario has inherent powers to permit this or direct it.

MR. SEGUIN: No, because it is in the statutes that all proceedings are in English.

MR. MAGONE: Mr. Chairman, we pointed out

the other day, you may remember, there is constitutional provision that in the Courts only English shall be used.

MR. SEGUIN: That is right.

PROF. McWHINNEY: What about the Legislature then?

MR. MAGONE: The Legislature could, but I thought you said Supreme Court.

PROF. McWHINNEY: I was discussing the two of them, but as far as the Courts, therefore, are concerned, it would require legislative changes.

MR. MAGONE: That is right.

PROF. McWHINNEY: Without a constitutional objection though.

DEAN LEDERMAN: I do not think we should worry too much about what the phrase "official language" implies in this document. I think all Mr. Seguin is saying to us is - I think this is what you are saying - that in the field of education "official language" implies the things you have been telling us are desired.

MR. SEGUIN: I have never asked personally that Ontario recognize French yet as an official language, nor have any of the briefs as prepared by my association requested that. That came up as a result of discussions within this Committee that it might be the only way to settle the question once and for all.

PROF. McIVOR: Mr. Chairman, I had the impression that Professor McWhinney's question addressed to Mr. Seguin was misinterpreted.

PROF. McWHINNEY: By Mr. Seguin?

PROF. McIVOR: By Mr. Seguin, yes. As I understood your question, you were merely enquiring whether, insofar as this recommendation applied in the area of education, it might not be separated out, and the rights that the French Canadians would be seeking in this area expressed in terms, in equivalents with the rights that English-speaking Canadians were granted in the Province of Quebec. Is that right?

PROF. McWHINNEY: Yes, I think it would be, with advantage, expressed that way.

MR. SEGUIN: I think I did reply to that. I said that is all very well for the education part, but I said today the people are expecting more.

PROF. McIVOR: There was no intention that this was going to be a part of the complete series of recommendations but merely separate the one or two that do relate to education.

MR. SEGUIN: Oh, yes.

PROF. McIVOR: I would like to go on with one other question for Mr. Seguin. I am not clear - and I think I share this doubt with Mr. Perry - as to what are the particular rights

to which you referred, which a number of Quebec Cabinet Ministers are constitutionally able to and disposed to withdraw from English-speaking Canadians, in education.

MR. STEVENSON: Mr. Chairman, perhaps I can add one or two points on that, in that I was talking to some people from the Quebec Department of Education last week, just to try to ascertain rather specifically, particularly in a community which was perhaps 85-90 per cent French-speaking, what the rights were for English-speaking students. I was assured quite emphatically that there was no cut-off point; that it did not matter how small the English-speaking population in a particular community was : the right still existed to have children educated in English.

What it meant was that the English-speaking School Boards generally covered much larger areas, and there was a high percentage of students bussed in from different communities. Even within Catholic School Boards there is a breakdown between English-speaking sections, although only in places like Montreal and Quebec would you have any sizable Catholic English-speaking School Board; but on occasion when you did have a community which would be 98 or 99 per cent French-speaking, the English-speaking parents might opt to have their children educated in French. But the right

was still there for them to be transported to an English-speaking school some distance away from the community.

MR. SEGUIN: I don't think it answers this - under what right would Quebec withdraw that?

MR. PERRY: This is not a right; that is a facility.

PROF. McWHINNEY: That is right.

MR. SEGUIN: Constitutionally they already can, but they are going drastically to do it.

PROF. McWHINNEY: What is it they are proposing to do?

MR. SEGUIN: I am not saying, because nobody has made an official speech about it, but I have heard and I have talked to these people and the population is gradually pushing them to that, it is the pressure. You can ask Mr. Stevenson who talked to an official of the Department of Education several weeks ago, about that, and what did he mention to you, that the pressure was behind ---

MR. STEVENSON: Oh, yes. They are listening to some speeches from the Prime Minister of Ontario and from Ontario generally on the question of greater recognition of French Canadian culture and language in Ontario; but they do not seem to be seeing very much in the way of positive achievement in the last few months at any rate;

that this is building up in Quebec.

MR. SEGUIN: That is right. It is building up.

DEAN LEDERMAN: I think the answer to Professor McIvor, Mr. Chairman, is that any withdrawal of privileges of the English-speaking minority in Quebec would be in the field of education; would be contrary to Section 93 of the British North America Act and would be in breach of the constitution.

MR. MAGONE: That is religion only.

DEAN LEDERMAN: No, here it is:

"In and for each province the
"Legislature may exclusively make
"laws in relation to education,
"subject and according to the
"following provisions:

"(1) Nothing in any such law
"shall prejudicially affect any
"right or privilege with respect
"to denominational schools which
"any class of persons have by law
"in the province at the Union.
"2. All the powers, privileges
"and duties at the Union by law
"conferred and imposed in Upper
"Canada on the Separate Schools
"and School Trustees of the Queen's

"Roman Catholic subjects, shall
"be and the same are hereby extended
"to the Dissentient schools of the
"Queen's Protestant and Roman
"Catholic subjects in Quebec.
"3. Where, in any province a
"system of separate or dissentient
"schools exists by law at the Union
"or is thereafter established by the
"Legislature of the province, an
"appeal shall lie to the Governor-
"General in Council from any act
"or decision of any provincial
"authority affecting any right or
"privilege ..."

PROF. CREIGHTON: This is really a dead letter since 1896.

DEAN LEDERMAN: "... of the Protestant
"or Roman Catholic minority of
"the Queen's subjects in relation
"to education.
"4. In case any such provincial
"law as from time to time seems to
"the Governor-General in Council
"requisite for the due execution
"of the provisions of this section
"is not made, or in case any
"decision of the Governor-General

"in Council on any appeal under this
"section is not duly executed by the
"proper provincial authority in that
"behalf, then and in every such case,
"and as far only as the circumstances
"of each case require , the Parliament
"of Canada may make remedial laws
"for the due execution of the
"provisions of this section and of any
"decision of the Governor-General in
"Council under this section."

So Section 93 is quite complex but it does contain essentially a guarantee of Protestant English-speaking schools in Quebec.

PROF. McWHINNEY: It is complex in case law, because it refers you back to a pre-existing, pre-1867 historical condition, and one of the reasons why the case law is so confused and does not help to establish general principles.

I do think, and I was making the point to Mr. Seguin, it seemed to me that at once the matters you suggested in relation to education are broader than the issue of official language, and yet at the same time, from the technical viewpoint, easier to achieve than the establishment of an official language.

I wonder whether the recommendations on education could not be separated out from the

official language. I do not know that they gain by being subsumed under that head.

PROF. CREIGHTON: Surely, Mr. Chairman, this is the real point about this recommendation, if I take it to be a recommendation. It does depart grossly, does it not, from the procedure which we have been following so far in the plenary sessions of this Committee. So far in the plenary sessions of this Committee we have been considering particularly rather small recommendations submitted by the sub-committees.

I will ask this Advisory Committee to recall the fact that a particular recommendation submitted by the constitutional committee on a previous occasion was postponed on the ground that it touched a matter of such a fundamental character that more time should be given for reflection.

I suggest that this paper commits this Committee to sweeping general propositions with respect to the position of French-speaking Canadians in the province of Ontario, which goes beyond anything we have so far had submitted to the Advisory Committee as a whole.

I therefore feel that all that can be done at this particular time is to table this; and that in the future they should come up with more particular recommendations and that topics of such breadth and complexity should be left until

this general session which I understand we are to have and which will be started off by Professor Brady's paper.

I think, and I think everybody in this Committee believes that we should at one and the same time consider particular matters and our general approach to Canadian federalism, and that it is essential that they should proceed, as it were, pari passu.

I do not think we should commit ourselves this early, when such a general review is up and is coming, to a proposition so general and so sweeping as this.

PROF. BRADY: I think the sub-committee realized that this was a pretty important suggestion and report. It did not assume, of course, that the Advisory Committee might agree to it today, but here are some recommendations and we want to hear them discussed and have them discussed. In other words, we cannot make much progress in the Advisory Committee unless we discuss this.

Certainly the Advisory Committee may not feel that it wants to,as it were, sanction this or support this at the present time, but it had to discuss it from every angle, critical or otherwise.

PROF. FOX: May I just add something to that, Mr. Chairman, that the sub-committee felt (as Dr. Brady suggests) that it was an important

matter, and that there are many problems involved.

What we tried to was really sort out three things. The first is a concrete recommendation about recognizing French as an official language, with English, in this province. That is specific and something that we would hope you would discuss this afternoon. We thought that might be applied almost immediately in the Legislative Assembly, which is one limited area of activity.

Then particularly we recognize that there are many, many problems involved in these other areas that were mentioned - education, judiciary etc. We are by no means attempting to suggest to you today that this ought to be applied in toto in all these fields immediately. We are merely suggesting, as this report indicates, that you look at it closely (on the top of page 2) and that we continue to study intensively these problems of general applicability identifying the difficulties.

In other words, first of all we have to say what the difficulties are and then to see what possible solutions we might arrive at.

This third phase in this proposed method we are offering to you, we are not unaware of the difficulties and complexities; and the study, for instance, that was mentioned earlier about teaching of French in the public school system,

we are not prepared to recommend anything on that, because we have not studied it and we also do not feel these matters should be confined to the cultural committee. They may well be brought to the attention of other sub-committees of this plenary Committee.

So really we are bringing it to your attention now for yourdiscussion as a general principle, in particular the first two items.

PROF. CREIGHTON: May I speak again to this? I should think, in the first place, that this first recommendation that French be recognized as an official language, with English, in the province of Ontario, should be referred to the constitutional committee, because obviously this is a constitutional matter of first importance.

I wonder if people realize just what is involved here, because Section 133, as we have been reminded, says that French or English may be used in the Parliament of Canada and must be used in the journals and records of the Parliament of Canada. This, by a very generous interpretation of the general regulation, that section of the statute, has been interpreted to mean in time the use of both languages in all official publications of Canada; and it has also been taken to mean the use of both languages in such organizations as, say, Air Canada, Canadian National Railways and so on.

If on any comparable footing French is made an official language of the province of Ontario, that is what is involved.

DEAN LEDERMAN: Mr. Chairman, I agree with Dr. Creighton that this has direct constitutional overtones, of course, but it is also like so many of the questions we deal with: it has all these features. This is why we need plenary sessions.

I am not unsympathetic to more recognition of the French language in Ontario, but I do feel this raises large issues, and that time is needed to think this over. This is without prejudice to any discussion we want to have this afternoon, but I would not want any discussion this afternoon to be designed to lead us to a conclusion this afternoon. By all means let us have a full and free discussion of these issues, recognizing that they are both constitutional and cultural.

PROF. McWHINNEY: They can be separated, I think, to this extent. One can agree on a desirable policy view in cultural terms, and then the constitutional issue is a technical issue if you agree in the policy, to ask us constitutional lawyers how you can do it, how you can translate it.

I do think, however, it was certainly not to oppose these suggestions Mr. Seguin was making, because I really agree with them; but I do think

the education issue is separate from the language issue. I say this with a background of having been through all the cases on Section 93. This has to do with the issue of language, but only in part with the issue of language, and certainly it does not have to do with language in the sense of "official language". It really is a proposal for greater use of the French language, which has nothing to do with"official language" and for parity of rights as between the French-speaking minority in Ontario and the English-speaking minority in Quebec in terms of Section 93 rights guaranteed under the constitution.

I think this is a separate issue from the official language one. Perhaps it would raise much less emotional opposition from the general public than the official language and, I think, with advantage it could be separated from it.

Certainly once you get to the constitutional stage or approach of how you achieve it, it would be quite different and, I think, very much simpler.

That was the only point in my comments, Mr. Seguin. I agree with you that politically it is very desirable that the province concede the equivalent of Section 93 rights in Ontario to French-speaking citizens, and I would have little difficulty in agreeing right now to such a proposition.

MR. SEGUIN: I may say at this point that it was not Father Matte nor myself that proposed the official language. It was our English-speaking colleagues who did that, and we certainly went along with it and we approve of this and we recognize their bravery in doing it in fact, I might say that.

I will come back to the courts for one second. I do not think any French Canadian lawyer in Ontario has ever requested that, but we certainly find it awkward - certainly in eastern Ontario sometimes when everyone is French, including the judge, the parties, the policeand everything, but we have never requested French.

On the other hand, in the departments of Ontario we would like to see at least one translator. If we cannot get an elevator boy or a clerk, we would like to see at least one translator. We are told, and I know we have got facts from some departments where you say "If you write in French, we reply to you in French". That is not right. I have evidence in my files in my office in my association. Nobody writes in French except the few in the Department of Education.

Now, as far as the official language, we did not intend to ask for that now, nor did my association; but, as I mentioned, it was after my colleagues took -- well, after receiving

evidence of what was going on and after the research on the subject, they came to that conclusion.

MR. PERRY: Mr. Chairman, I think the rest of us will have to know more about what some of these concepts involve. Just as a layman, I look on the official language as one would look on the official coinage - sort of good for all purposes.

Does this mean, for example, that if I were a tenant and my landlord presented me with a lease in the French language, that this would be within his right; or are we simply talking of thelanguage of official business, of the public sector of the economy, the government,the courts and so on? Is this what is implied in the expression? If it is, it does not frighten me too much, I must say. Or is it something broader than that?

FR. MATTE: Mr. Chairman, maybe I could say a word here.

We are here, I imagine, to preserve Canadian unity, Canadian federation - maybe not to preserve the B.N.A. These are two different things, I imagine.

I would just mention this. If you go to Gaspe, a small village (maybe that is the example Mr. Stevenson had in mind before) there are just a few Anglo-C nadian families but they have their own school and bus transportation. However, if

you go to another place that is somewhere in Ontario, you do not have the same treatment.

So the people in the province of Quebec will say: "Listen, there is a Confederation". B.N.A., first of all, fine; but they do not have the text of the B.N.A. They understand they are federated in a country called Canada, but French Canadians receive their treatment, and another one receives another treatment, in the same country. That is why they say: "Let us think it over" and either we have, as Mr. Levesque was asking the other day, a new Canada or no Canada. Maybe that is the point. A new Canada or no Canada.

We understand that yes, English-speaking people have their special rights in the province of Quebec. We French Canadians do not have these rights in Ontario. That is why they say: "Let us change the constitution. Let us change the Confederation".

If we are to stay as a country - Canada, a good lot of people believe that all citizens could receive the same treatment under the same circumstances. That is the great problem.

THE CHAIRMAN: I was rather interested in the possible logistics of a situation that you alluded to earlier, Mr. Seguin - the suggestion that there were those in Quebec who might be prepared to proceed to withdrawal of rights from

the English.

Now, I take it that if that situation were to happen, this is saying in effect that they have decided that Confederation is to cease to exist?

MR. SEGUIN: That is right.

THE CHAIRMAN: Because one of the sanctions, so to speak ---

MR. SEGUIN: That is right - what would be sanctions? For instance, I know they will appeal to the Governor General. Is the province of Ontario, together with the other provinces, going to send in an army?

I imagine it is all very well to be told that Section 91, Section 92, but who has the right to distribute the baby bonus? The federal government. And Levesque is asking for that same baby bonus and, you see, there will be a battle and he may get it.

So when some people quote me section 91, 92, 93 and all the others, I know them all by heart; we have studied, we know them, exactly what they are, and the people of the province of Quebec know them too, you can be sure of that. They have had it now for five years while this province only started a year ago.

MR. GATHERCOLE: Mr. Seguin, may I ask you this question? Irrespective of whether Ontario would adopt French as the official language, with English, is not Mr. Rene Levesque still

going to pursue the objective of acquiring the right to administer and pay out family allowances as well as unemployment insurance and all the rest of it? I mean, I find it difficult to accept the conclusion that they all are related, and I just cannot visualize how Mr. Levesque's attitude towards family allowances or unemployment insurance will be moderated by Ontario adopting French as the official language.

MR. SEGUIN: I will tell you how it can be achieved is that I think it will be much easier to achieve if Ontario and Quebec get together. I think Lesage is probably the man today, with Mr. Robarts, to do it.

MR. GATHERCOLE: I would agree with that.

MR. SEGUIN: And I would say that if Lesage felt that he had sufficient backing from others outside the province, that he might be able to throw some of those individuals out that at the present time it is impossible for him to throw out. It is impossible for him to even think of throwing them out, because he would be beaten at the next election, I can tell you that.

The population of Quebec today feel that these are the heroes. A letter to Washington makes that man a hero. Lesage coming to Ottawa makes him a hero to the people that vote.

Now, I am not saying that this will help

save Confederation entirely. In fact I would go so far as to say that the official language is probably not required for many years, five years, three years, four years; but the French have got to be recognized some way: firstly in education, secondly in the departmental business, and thirdly in civic administration.

That is the way I see it as an Ontarian. That is not the way that the people of Quebec see it, as reciprocity. That is the whole trouble, you see.

I know we are being told by the people of Quebec: "You people from Ontario are asleep. You should push them to the wall. You should ask for more". You see, I know what their attitude is. They tell me because I am president of an association that is the senior French-Canadian association of Ontario. They come to me and they say: "What is the matter with you? Are you afraid?".

MR. GATHERCOLE: Has not the Prime Minister of Ontario's policy been one of trying to avoid making demands on Ottawa which would perhaps bring about a rupture of Canada?

MR. SEGUIN: I think that is right.

MR. GATHERCOLE: And has been quite restrained with the representations he has made to the Government of Canada on a number of matters.

MR. SEGUIN: Very much so.

MR. GATHERCOLE: Which he may have pursued now, had it not been for his desire to keep Canada as a whole and avoid as far as possible asking for ---

MR. SEGUIN: I have no doubt about it. He has helped tremendously in the last three years in saving Canada that way, because he has given leadership to the other provinces to follow.

MR. GATHERCOLE: What I find about this statement here, if I could just raise a very minor point about it: I would have suspected that New Brunswick rather than Ontario, next to Quebec, had the largest proportion of French population.

PROF. FOX: Does have the largest proportion, but not the largest number.

MR. GATHERCOLE: The largest proportion.

PROF. FOX: That is referring to numbers. There are six hundred and some thousand in Ontario.

MR. GATHERCOLE: As it stands, it is correct, but I personally feel that the order of these submissions are reversed. I think we have to proceed rather gradually in this matter. I do not think the establishment of French as the official language, with English, is something that you can spell out by steps. You can work to it by education, by adopting it in the Legislature, by adopting it in other official places, or by encouraging its use in business you can work towards accomplishing that. Then maybe the day will come

when you will have it as established that English is one of the official languages; but I do not think that you can declare that French is the official language, with English, in Ontario, and then start down working towards the other education and this ---

PROF. BRADY: You would eliminate that statement of goal, as it were, and suggest a procedure that we recognize French as a more significant language?

MR. GATHERCOLE: Yes, as a goal towards some time having it; but immediately, with many people in Ontario, you say, "Very well, Ontario has established it with English as an official language", then immediately it is bound to raise a few hackles around.

DEAN LEDERMAN: I would agree with that. There is a problem of public opinion in English Canada as well as in French Canada.

I am attracted by what Mr. Seguin said about his own priorities - the education, departmental business and so on, and I would be quite happy to see reciprocity arrived at in these fields one by one. Then lo and behold, you get this in a few years, you get this accomplished in not exactly piecemeal fashion, but in the typical Anglo-Saxon pragmatic fashion; and lo and behold, in a few years you say: "My goodness, we have another official language". But if you start out with

that painted on banners, I do not know what is going to happen as a matter of public opinion.

MR. GATHERCOLE: I do not think it can be done.

DEAN LEDERMAN: As a matter of fact I think I do know what is going to happen as a matter of public opinion.

PROF. McWHINNEY: Procedurally, would the Chairman of the Committee be prepared to consider specific proposals within the report, rather than the report as a whole?

For example, on education I have the feeling that there might not be any opposition to a concrete proposal implementing the suggestions Mr. Seguin made and that with advantage - since it seems to me substantively this is rather different from the official language issue, although overlapping with it, substantively we would make good progress this way.

In other words, I think your opening statement, your general proposition does not really cover your detailed recommendations; and I get the impression that the thrust of Mr. Seguin's proposals really is directed towards education; that he and Father Matte are really concerned with this, and it seemed to me it is a separate problem and politically very much easier to establish, even within this Committee this afternoon.

MR. GATHERCOLE: Very definitely.

PROF. MEISEL: Mr. Chairman, I think that we had covered all the points, I think, that have come up in our general discussion here in the Committee, and have mulled them over, from the lots of points of view that have been presented; but I think perhaps one thing yet we have not communicated to the plenary Committee, the whole Committee, is that we have in the last few months become convinced that there was a sense of very great urgency about all this; that we are really dealing with two things - we are dealing with the substance of the situation, the fact French-speaking citizens in Ontario are suffering from certain inequalities in the field of education and something can be done about it; and we felt that there are a number of things can be done about it fairly easily.

However, that is not the whole problem. We are very much aware of the fact that the country as a whole is being threatened by a growing nationalist movement in Quebec, a movement which is now to some extent being exploited, and to some extent which exploits, leaders in Quebec; and that there is a genuine division on the part of the Quebec Cabinet itself; that there are forces of moderation and there are extremist forces in Quebec and that there is something that

can be done outside the border of Quebec to strengthen the moderates within Quebec and to make it possible for them to offer some sort of alternative to the increasingly immodest demands of the extremists; and that something of a symbolic nature had to be done to appeal to the imagination of the population of French Canada and to the leaders, that they could then use this in developing certain policies which are, if you like, pan-Canadian in intent.

We thought that it was not enough simply to do the kind of things in Ontario that we thought were necessary to equalize the position of the French-speaking Ontarians; but that also a symbolic act would be extremely useful in developing among some people in French Canada a sense of commitment to the rest of the country; and that a declaration which states that it is the intention of the Government of Ontario to do something about these things would now be in order, despite the fact that we realize there are enormous difficulties involved.

Now, I would like to point to something that Professor Creighton said. He was talking about what is now being donein Canada when we have interpreted the rights passages in the B.N.A. Act generously or that they were so interpreted, and that therefore what happens now is that Parliamentary

papers are in both languages and all government documents on the federal level are in English and in French, and the same thing occurs, of course, in Quebec with relation to English and French.

This, Professor Creighton seems to think, if carried out in Ontario, would be an enormously expensive thing. Well, it would be expensive, but it seems to me, in relation to the benefits that this might have if it does provide a politically acceptable or politically useful gesture, then it is peanuts really.

What does it cost in relation to what we spend on national defence in the Department of National Defence, to print every blessed document that the Ontario government puts out in both languages? In relative terms it is not very much.

Therefore I think in this sense we would not be incurring enormously prohibitive expenses.

PROF. CREIGHTON: I was not thinking of expenses exclusively at all, not a bit.

PROF. MEISEL: I am sorry, I thought you were. Actually we are aware that some of these things would be considerably more expensive in terms of what this would mean in educatinnal costs, in providing services for all kinds of activities. This in the long run would be much more expensive, and I do not think it could be now implemented. It would take years before there would be enough

facilities to make it possible for the two languages in Ontario to be on equal footing; but we felt the important thing was to make available a footing now and to start working on the way in which these things can be achieved over the long run.

PROF. McWHINNEY: Could I ask John, through you: Would you be prepared to accept, as a procedural point for the purposes of this afternoon, for example, proceeding in two steps - one directed towards the issue of education, and the second directed towards the general policy objective you have outlined, which includes education.

I get an impression that at least in relation to the second, some members of the Committee might wish to have the matter deferred,whereas I think in terms of education a specific motion directed towards parity of rights in terms of Section 93 rights probably would be generally acceptable. May I suggest that?

PROF. MEISEL: It doesn't much matter how we discuss it. I think the point is to look at this and if we can to some extent make it easier to stay with a particular point by dividing the issues, by all means let us.

DEAN LEDERMAN: You see, you put your symbolism on the level of public opinion in the

province of Quebec. The trouble with the symbolic device is that it may have the reverse effect.

PROF. CREIGHTON: Exactly.

DEAN LEDERMAN: In other parts of the country.

PROF. CREIGHTON: That is the important point. This is the province that has not been heard in this matter yet. It is like Chesterton's poem: We are the people of Canada who have not spoken yet. We may speak.

PROF. BRADY: Not entirely true, you know.

PROF. CREIGHTON: I think that they would speak very definitely if this paper were published.

PROF. BRADY: There are many submissions, however, to the Bilingual and Bicultural Commission on the part of organizations in this province and important organizations - some of them indeed that you would hardly expect to come out with the opinion that they had; but there is a strong leaning in many of these submissions to the recognition of the two languages.

DEAN LEDERMAN: John mistakes me, Mr. Chairman. I am in favour of pressing for good status, equal status for the French language in Ontario as far as it is sensible to take it; but the official language proposition that has been put on the basis of its political influence on public opinion in one province - you have got to look at what its influence will be on public

opinion in others, and it may do more harm than good.

PROF. MEISEL: We discussed this and, of course, we debated -- I am not happy that it may do more harm than good, but this is certainly one point that Mr. Robarts, as an experienced politician, would address himself to, I am sure.

PROF. MEISEL: If you will look at the paragraph on page 2, you may realize that we did in fact think about this and we felt that we really came across a procedural point of to what extent should this Committee, for instance, follow it? When it confronts the situation of whether public opinion should be influenced, have we any responsibility in this respect and, if so, what should we do about it?

PROF. BRADY: We haven't any responsibility, obviously, but we have a responsibility for investigating the matter.

THE CHAIRMAN: How do you wish to proceed generally at this juncture, with respect to this submission, with respect to the balance of the afternoon?

PROF. SYMONS: Mr. Chairman, I think our sub-committee was under no illusions about the magnitude of the matters that we were advancing in this paper.

I should perhaps stress a little more than has been, that it is based upon a great deal of

work.

As you know, our sub-committee as a group, and small groups, has had a number of special meetings over the last few months on this matter. There certainly was no thought that it would be possible, or even desirable, to press to some sort of conclusion at this meeting or even at the next meeting; but we thought it was time somebody called a spade a spade and put what is, for French-speaking Canadians the main issue before this Committee. We have skirted it for a year, and here it is.

I think too, it should be stressed that our sub-committee was unanimous in the matter. It is perhaps a little unfortunate but gallant, that Mr. Seguin should initially have the onus of defending this proposition; because the English-speaking members of the sub-committee were of the same mind as our French-speaking members on this question.

We did feel -- and the members of the cultural sub-committee to a marked extent are, by virtue of their personal interests perhaps rather more fully in touch with the currents of things and political activity in the province of Quebec; we did feel that the country does face a crisis and we are not convinced that it is going to be possible to deal with the crisis just in the good old

Anglo-Saxon method of "ad hoc-ery" and pragmatism.

When it comes to Anglo-Saxons, I am as square as the next one, and I certainly, as a rule, and as a way of life, follow the pragmatic step-by-step procedure; but I am convinced, as I think is every other member of our sub-committee, that this just won't meet the situation; that things are moving and moving fast on the French question in Canada. Constitutionalist as I am, to the hilt, I think, when all is said and done, if the thing really continues to run it just won't matter what the B.N.A. Act says, the real question will be: Is English-speaking Canada, if the moment comes, prepared to take certain kind of action to assert the validity of the British North America Act?

I think this moment could come. I think there is an unfortunate impression at the moment that the problem is abating, that things are easier; and this is dead wrong. It is simply that things are better organized. People know a little better where they are going in Quebec, and they are carrying it on in a more effective, less noisy outward way.

It certainly is my own assessment, and of others in the sub-committee too -- and we have chatted this through with great care and at great length, and every member of the committee may well be just wrong; we all felt, from different points

of view, from different sources of intelligence, that a critical thing could emerge and was shaping up, and that it called for some active, calculated, courageous statesmanship on the part of the leading English-speaking province.

We are under no illusions about the fact that this was an enormously difficult and hazardous thing for any English-speaking provincial leader to even contemplate undertaking; under no illusions at all about the fact that this is something that will be politically fraught with more difficulties; but it was the careful assessment of members of our committee that some action of this sort was the thing and one of the very few things we could think of, that might make a difference to the future of this country and to the survival.

I think none of us on that committee are crisis-thinkers or drum-beaters; none of us are particularly radical (if I may use that word rhetorically) in our way of life or going at things; but all of us, from diverse backgrounds and points of view, diverse intelligences, came to feel that this sort of thing was necessary, that it might be a case in which Ontario was (whether it wanted to be) in the unique position of holding the opportunity to take some action that might perhaps be decisive to the survival of the country.

Continued administrative improvements, continued administrative step-by-step improvements which have been so marked recently will help; but we felt that that was not the answer, but that some symbolic action in addition to this, which affirmed this policy, the trend, but not merely of the liberal elements in this province but of this administration under this Prime Minister, would be terribly important.

THE CHAIRMAN: I would like to declare a brief break for one other symbolic act.

--- short recess

THE CHAIRMAN: I thought you might be interested that obviously the events of which we speak are in the air in other places than this room. First of all, we have the Telegram telling us there is going to be another election, but you will not want to consider that; secondly, the Star tells us Mr. Pearson is not going to make any more concessions to Quebec. I thought you would want to know that.

DEAN DILLON: Mr. Chairman, I was very sorry that you called that break as you did, because I was just about to remark about President Symons' statement, that I could not agree more, and I endorse it wholeheartedly.

I think that the issue and the central theme

of this recommendation of the cultural committee,
2 is one -- it is an emotional kind of thing and I think it has got to be faced quickly and it is something that we will never reach in a step-by-step way. I for one hope that at least the essence of this could be discussed tonight.

PROF. CREIGHTON: Mr. Chairman, this has been reached in the step-by-step way by the cultural committee, in which the members of the other committees hadnot participated, and it has taken them approximately nine months to reach these conclusions. We are presented with their findings in two pages in one afternoon.

I submit that we ought to have a somewhat similar length of time, or at any rate some time, for consideration of these matters; and that even the principle, let alone any of the details, certainly cannot be decided and propounded this evening.

PROF. McWHINNEY: My suggestion, Mr. Chairman, which I made earlier and would repeat, would be that we proceed, if this meets the wishes of members of the Committee, to adopt the recommendation as to education involving according of full parity and of rights to the French-speaking minority in Ontario, as accorded to the English-speaking minority in Quebec; but that the balance of the recommendations of the committee be held over until

our next meeting, and the constitutional committee might be asked in the meantime to report on the legal implications of that and perhaps your department on administrative possibilities of the implementation.

THE CHAIRMAN: Now, Dean Dillon has raised the question of this evening, and I think I have a sense of what must be in everyone's minds (certainly in my mind) that we have a number of things here; and there is no doubt that this is both a hot issue and an issue of some heat (I distinguish those two in deliberate fashion).

We have certainly done, and it has been our custom to make, extensive examinations and reasoned recommendations to the government, at least in the one we have done so far, and I propose that the practice should and must continue. On the other hand, I feel that we have few opportunities to meet with the Prime Minister.

I had breakfast with him this morning to brief him on the possible form of the evening, and suggested to him that he should consider three matters before the Committee. One, the extent to which he expected us to produce a consensus or not. He said right away that he would be very surprised if we produced a consensus on all matters, helpful though it might be.

Secondly, that we should have some discussion

about our continuing relationship to him, and how we want the views of this Committee absorbed by him, indeed by his government. He was concerned to talk about should there be a Cabinet committee that may take these things, so that he is not alone on them, or should there be a Cabinet committee that would meet with us on occasion and do exactly what we are doing here.

Thirdly, that he should give us some indication of his priorities and what he feels, as Prime Minister of Ontario, are the responsibilities he presently has and the issues he presently faces.

Now, I would say this then, as far as this evening is concerned, that in a sense everyone should feel competent to speak for himself; that we have a continuous process going on in which we are trying to translate recommendations to the government; but it is also true that we have few opportunities (as we shall have tonight) to speak frankly to the Prime Minister -- and he wishes us to speak in that way, and he wishes to speak to us in that way.

Therefore, as far as this evening's discussion is concerned, it is an informal confrontation, and I do not feel that any matters that the Committee feels to be matters that are of high order in the Confederation to date, may not be discussed. That is the only point I make. I think these things,

in whatever way, should be brought up. By all means, we need not feel embarrassed about displaying our differences. Now, this is the whole purpose of our meeting tonight.

To return to an earlier point, Professor Creighton has pointed out that we do not know enough perhaps -- or, put it this way -- we have not seen Ontario collectively or as groups of individuals expressing what they feel and what they want. This is perhaps what we may learn a little about tonight from the Prime Minister. He, as a politician, lives with this situation from day to day, and I think we should hear his point of view of what problems he sees.

That seems a very cumbersome way of saying that I think we should have a really good bull session tonight with no holds barred.

PROF. SYMONS: Good. Mr. Chairman, on this particular thing, perhaps it needs to be said again. I certainly do not think (am I correct, Professor Brady?) that our sub-committee had any thought at all that a thing of this moment could be decided on the basis of discussion at one meeting.

We were anxious to lay before this plenary Committee as soon as possible the general draft and conclusions of the thinking that our committee had been concerned with in the last two months.

This is really being made one of the continuing staples of our committee's work, and it is an outrageous suggestion that something of this sort should be decided today, and I certainly do not think it is one that our committee had in mind at all.

MR. PERRY: Sure.

PROF. SYMONS: We had to search our hearts as to whether or not we should table these recommendations at this meeting, or whether we should defer it a further month. We felt that we had really reached the limits of our thought on the broad principles, and it was our duty to present it to the plenary session as soon as possible. It would have been presumptuous on our part to suggest or expect anything other than preliminary discussion by the full Committee today.

We had nothing more than that in mind, I think. Am I right, Professor Brady?

PROF. BRADY: Absolutely, there is no doubt about that. We had discussed whether we should not delay presenting this and looking into some of these matters further, but we decided it would be much better really to bring this matter out into the arena of the general Committee and get opinions from them and have the matters explored.

We certainly did not think that the Committee would promptly make a conclusion and say: "We agree to this". It is far too large and provocative

a matter to expect a ready agreement. We do strongly feel that this is a matter that has to be faced by the Committee sooner or later, and we felt the sooner the better, and that is why we presented it today.

PROF. CREIGHTON: Mr. Chairman, this is one of the disadvantages of proceeding as we are doing, through specialized committees: that the other members of the Advisory Committee not belonging to the particular committee that is reporting, see before them a recommendation or a set of recommendations which are completely new.

As I reminded the Advisory Committee a while ago, we (the constitutional committee) had one recommendation postponed on the particular ground which I am urging today, that this is a matter of such serious import that we could not decide it. It was postponed till the next meeting and was not decided at that meeting either.

I am not sure what the answer to this is, but it seems to me that if the device of all-purpose committees is not followed, it must necessarily follow that two-thirds of the Advisory Committee will be ignorant of the whole process by which the special committee has reached these conclusions, and that, in justice, they have got to go. There are the same kinds of arguments before they can accept, reject or modify its resolutions.

That is why I originally suggested that all-purpose committees might have a special advantage, that they would cut short this prolonged period of discussion; because, if not, what you have got to do is go through the special committees and then go through the whole process all over again in the general Committee. With a thing of this magnitude, I do not see how you can avoid it.

One of the members of this committee, for example, who, I am quite sure would object quite
13 strongly to this first proposition is not here today. He has had no chance whatever to say what he thinks about it.

THE CHAIRMAN: Could I sum this up by saying that I detect three problems here.

One, I think it must be generally agreed that this document enters into the continuum of our discussions, so to speak, and has been placed before us here for that purpose and we will continue to examine it in the customary manner.

Secondly, I think, in view of what Professor Creighton has suggested, our research policy or executive committee (whatever you wish to call it) must further consider this problem about the specialized and all-purpose committees as part of our procedural approach. I think it continues to be a problem.

Thirdly, however, as I suggested, I think

we should regard this evening as a quite separate proposition from the continuum of our events and treat it in those terms. The Prime Minister is not going to be surprised or offended at anything we may have to say. Now, it may help us to hear from him at this stage on so many of these things, and that is certainly what he wants of it, and we cannot afford to miss this opportunity, because now that a Session is opening, much as he would want to meet with us frequently, it may be six months before we see him again.

DEAN LEDERMAN: Mr. Chairman, may I throw a procedural thought on the table for the executive committee. My alternative - there are other alternatives - is three special purpose committees or three all-purpose committees (I would think we may have to preserve the three specialized committees) but they meet less, but the plenary session meets more.

PROF. MEISEL: Hear, hear.

DEAN LEDERMAN: More plenary sessions. This is not too big a gathering. This is all right. One plenary session would be better than three all-purpose committees.

THE CHAIRMAN: I think before these next two questions, we have got to take a good look at these. As far as this afternoon is concerned, in view of the hour, what is your wish for the

future treatment of the document here?

PROF. BRADY: I think, Mr. Chairman, it might be better to accept this report of the cultural committee, to leave it with the General Committee, and have a further discussion on all that it involves in the next meeting.

PROF. McWHINNEY: You do not want to salvage -- in a way I understand the merits of a full postponement, but on the otherhand we have been doing this quite a lot. For example, on the education issue, if there was consensus on this, would that be a matter that one could separate from and go ahead with?

PROF. CREIGHTON: I do not think so.

PROF. McWHINNEY: You do not think so?

PROF. CREIGHTON: No, I do not.

DEAN LEDERMAN: We do not have anything scheduled specifically for February the 18th. This could carry on.

THE CHAIRMAN: Could well sustain us, I think.

PROF. McWHINNEY: Could we meet in plenary session on the morning of the 18th?

DEAN LEDERMAN: This is the most important and down-to-earth discussion we have had. I do not think there is any doubt about that.

THE CHAIRMAN: If there is no dissent, I would certainly accept that proposal, that we make

this a major part of our work of the next meeting.

PROF. McWHINNEY: Might we make it the morning part of the work, so that we could go over the afternoon if necessary.

THE CHAIRMAN: I said "a large part" deliberately, so that there is some flexibility there, but, of course, whatever portion we decide. Is that agreed?

May we turn to Mr. Perry then, on the economic and fiscal sub-committee.

MR. PERRY: We have not committed ourselves to paper, mainly because until about noon today we were uncommitted and we are really not very much committed even yet.

We are in the centre of a vortex in which economic and fiscal matters are not only on the eve of changing, but are in fact changing from day to day, and in which some fairly large elements of great influence are still sort of off stage, -- that is, the reports of various Royal Commissions, the studies of the Tax Structure Committee. Therefore, we have been proceeding through, in one sense, a vacuum, but one in which we can hear very resounding echoes of outside activity.

We have spent a great deal of time reviewing the existing arrangements between the federal and provincial governments in all their forms, attempting to see what the trends of development

have been here, and what sort of relationship Ontario should have with regard to these trends.

We started our general discussion with two or three assumptions. Perhaps the basic one is that economically and fiscally Ontario could be self-contained; thatit really is not dependent on any other part of the country for support, and in fact it is the origin of much of the financial resource which is distributed out to the other provinces. So that in this sense then, Ontario's commitment is governed by its relationship to the larger whole, or the country.

We then asked ourselves what should be the basis of this commitment. I think it is the consensus of the group that there should be a sufficient commitment to a central government that it has sufficient powers to exert or to bring to bear on a national economic policy.

Now, we have not spelled out the content of national economic policy, but it does seem to imply control over monetary policy, tariff policy, enough control over fiscal policy that it can use this as a device in relation to the national economic policy.

This is sort of one of the categorical importations, I suppose, of a federal system in which one has a combination of governments.

The other one we take to be the need for

redistribution of resources among the various provinces, particularly towards those provinces most in need.

This, then, raises the whole question of the form and purpose, size and shape of the transfer process between the federal government and the provinces.

It is quite apparent that in recent years there has been greater emphasis on transfers through the shared-cost type of programme. I think as recently as ten years ago there was almost no shared-cost programme of any substance. Now there are several in being, and several more being proposed by the federal government.

We have spent a lot of time talking about the basic assumptions of such programmes, the sort of motivation behind them. We have questioned the need for efforts on the part of the national government to establish minimum standards of service throughout the country; and also examined to some extent alternative means of transfers.

Then along with this question of the transfer mechanism, is one which is probably more closely related to the degree of economic power left to the federal government; that is simply the arrangement, the disposition of the taxes between the levels of government. To what extent should the national government be levying taxes rather than

the provinces, or vice versa?

These are the main ingredients of the discussion that we have been carrying on. We have the good luck of having access to the research staff of the Economics Department, and wehave had several good background papers provided for us on opting-out and other features of the present scene.

If I can telescope the kinds of attitudes that we are developing out of this examination, it would be this: that Ontario recognize (and I believe it already has recognized) that a national government having sufficient powers to carry out a national economic policy, is essential; two, that we question the very strong emphasis in the recent programme of transfer payments on shared-cost programmes with their very precise rules of compliance, varied and confusing bases of
14 calculation. We would suggest that in place of this there be developed a scheme of what in the jargon are called block grants. More generally, what we have in mind is that payments of an unallocated nature be made from the federal government to the provincial governments but determined on a basis which reflects the needs of the provincial governments and which would carry some commitment on the part of the provincial government that the money be spent in the areas which had been taken into account in determining

the amount of the grant.

This all sounds rather vague, I am afraid, but it still remains for us to work out something more specific here.

Generally, this all stems from a feeling that the federal government need not be as precise and exact as it has been in working out its programmes of subsidies and grants, in relating them to specific types of activity requiring specific types of action and performance on the part of the provinces. This is the general theme we are working towards on the transfer side.

In the other main area, the question of what government imposes what taxes, there is a little more difference of view in the Committee. I think my own feelings are that although it is recognized that in the next five years a fairly substantial surplus will emerge in the federal government's budget, having its counterpart in a fairly substantial deficit in the budgets of the other governments, that any further transfer of tax sources should not take place in the fields which have so far been used, that is, in the personal and corporate income tax side; that further transfers of revenue should be in the indirect taxes, in the sales taxes.

I say this is my personal feeling. It stems from a belief that a fairly sizable piece of the direct taxes must be left with the central

government if it is to have a viable fiscal weapon for economic purposes.

Now, the other members of the committee, I think, shade off down the line towards conceding that more money can be transferred through direct taxes, and perhaps some transfer of sales taxes as well; but we are agreed that, no matter what the type of transfer, there is a point at which one must stop, that there is a point at which you so weaken the federal government that it loses this viable fiscal control which we think is essential.

Now, as to putting a figure on what this point is, we do not know, and it would be a massive and illusive economic study in order to put such a figure.

This is in general where we stand on the allocation of tax resources. We have looked briefly at some of the other aspects, the more specific aspects, such as assistance to designated areas. I think we feel there that the federal government would be better advised to give some general form of assistance to a provincial government and allow it to develop its own methods for allocating this assistance within its own area.

Since yesterday there is on the record now a complete conflict between the federal government's

designated area system and the growth point of the basis which Quebec has adopted as its basic programme. It is very likely that other provinces will have their own approach too.

This is mainly on the assumption that a province will have a better and clearer notion of what should be done within a specific region and in its own confines than the federal government.

On the war on poverty, I think the battle is hardly engaged as yet - unless you made some striking progress after I had to excuse myself.

THE CHAIRMAN: We got to feel a little impoverished, or anyway hungry, so we did not detain ourselves.

MR. PERRY: I assume it would be in keeping with our general theme here that, again, the federal government should be working out general programmes of transfers which would put a province in the position of being able to cope with these problems itself, without as direct and specific controls and requirements as there have been in the past.

Well, along with all this, we see the great need for constant consultation between levels of government. There are very few major acts that the federal government will take or that either Ontario or Quebec will take, in the fiscal or economic area, which will not impinge in some way

on other governments. We see great advantage, in fact we see it as an essential condition, that there be very close consultation between these levels of government on any major move.

Now, this is a thing that is easier prescribed than executed. At some point, of course, governments have to go their own way and act in their own lights, but at least there are more encouraging beginnings now. There are conferences -- there is a conference between the Ministers of Finance, at which general views as to the economic outlook for the next year are presented. We think this kind of vehicle can be developed and indeed must be developed, primarily because the provincial governments are now making the expenditures of main economic significance, that is, the expenditures on goods and services and the capital expenditures. So that we bless consultation and co-operation. Have I left anything out?

THE CHAIRMAN: No, I think that was a very comprehensive review.

MR. PERRY: That is about where we have ended up.

THE CHAIRMAN: As I think I have said before, this Committee faces a special problem in trying to develop policies that will be translated in fairly short order into some approach

to the new round of federal-provincial financial negotiations.

On the other hand, we are also mindful that the likes of Mr. Perry and others have the great secrets of the Carter Commission stored up ready to place on the table; and what we are trying to do is really anticipate and be in a position to have established our general positions within which the materials can be placed.

I think Mr. Perry has given us a very thorough and fair review of our discussions, and we have been developing this. We discussed this in the presence of three members of the Department of Economics here, three economists who have been going over and refining it and intensifying it and doing research into it.

I would say on the basis of what you have today, that we would be about in the position now to produce a paper of general postulates and policy positions, would we not?

MR. PERRY: Well, yes. The federal side of this paper, I am wondering ---

PROF. CREIGHTON: Mr. Chairman, could I ask the chairman of the fiscal sub-committee a very naive question. It is this. Has the sub-committee considered this possible solution? The problem appears to be, and has been for some time, the provinces have too many and too large

and too costly functions, and too little revenue. Up to the present time it has been solved by handing federal revenues over to the provinces.

Has the sub-committee considered the solution of handing functions over to the federal government? Sometimes it strikes me that parts of the B.N.A. Act are alterable at will, but others are utterly sacrosanct.

MR. PERRY: Not really. We have the feeling that the tide is running in the opposite direction.

PROF. CREIGHTON: Yes, I would be willing to admit that. Does that dispose of the matter, though?

MR. PERRY: No, it should not really, but I am afraid it has been sort of a conditioning thought in our own approach.

PROF. CREIGHTON: Then, therefore, you regard the British North America Act as composed of two sections - those parts of it which are alterable freely, and those which must stand unaltered completely and forever.

MR. PERRY: No, I don't myself.

PROF. CREIGHTON: It is a curious division here which means that with relation to certain aspects of constitution they are freely alterable, or proposals for their alteration are made daily, and nobody ever touches other aspects.

PROF. McWHINNEY: We talk of super-eminent sections of the constitution, which are supposed to be unchanged, and the others do change formally or otherwise; but somebody pointed out that even the super-eminent sections that supposedly never change, are also relative in terms of degree of change. This is one of the things we try to get across to students, that everything changes.

PROF. BRADY: Isn't it the case that the federal government has intruded really in provincial jurisdiction?

MR. GATHERCOLE: In the past.

PROF. BRADY: In recent years too, - municipal loan funds and what-not - and is using a good deal of money in expenditures in those spheres.

MR. PERRY: Really at the instigation of economists who stated that this was the way to maintain a stable, rising national income, I think they used to call it.

DEAN LEDERMAN: Mr. Chairman, may I ask Mr. Perry a question. You tugged at my prairie roots when you said that Ontario could go it alone. Do you really mean that?

MR. PERRY: There is no emotion involved in this.

DEAN LEDERMAN: No, I realize.

PROF. FOX: There is not for you; there is

for Bill.

PROF. McIVOR: May I say, Mr. Chairman, in this connection, I think Mr. Perry used an expression which might be slightly ambiguous, that Ontario was economically and fiscally self-contained. That was the impression. This does not mean economically self-contained in the sense that we could organize our own economy and pay no attention to the rest of the country. It is simply on the basis of the organization of economic activity in Ontario, which, of course, depends on markets in the rest of the country and on their own markets and so on. We could manage fiscally to finance our own operations at satisfactory levels, without being dependant on transfers of government funds from other parts of the country to Ontario.

DEAN LEDERMAN: My layman's impression of the economic situation of Ontario is that it is the portion of Canada that has the greatest stake in a viable Canada, because we export more to other parts of Canada than anyone else.

PROF. McIVOR: That is quite true. That is why I say the expression is ambiguous, and to say that we are economically self-contained was not intended to convey that situation.

MR. PERRY: Economists could argue about this, but I think all I intended to mean by that

is that given the context of Ontario in the nation here, I can say that we are not too concerned about getting assistance from Ottawa or any other government. The resources are here to be taxed and we can tax it. How those resources came to be here is something else.

DEAN LEPERMAN: Given the continuance of a viable Canada, we do not need transfer payments, or we can manage without transfer payments. This is the idea. I misunderstood.

MR. PERRY: I am not conceding that McIvor argument at all. I think this might be a self-contained economy. Anyway, this need not be an issue. The fact is, as Ontario stands in the economy today, it is a net exporter of funds to the other provinces. That is all I am saying.

PROF. MEISEL: Mr. Chairman, could I ask a question? This issue of block grants which seems to be emerging in the Committee, does this mean that the Committee, and perhaps the country, have abandoned the idea of the national standard as expressed in the Rowell-Sirois Commission report?

MR. PERRY: No, not really. Being economists we have pretty firm views about mobility of labour and some national uniformity of education and training; but we are not willing to push this to the extent that it is now pushed.

In other words, the kind of package we envisage is one which would enable a province to maintain a sort of minimum standard of health, education, the other things that you wanted to be in the package; but it would be up to the province then to make its own decisions as to just exactly what standards it did maintain.

In other words, if it wanted to have a little higher standard of education and a little lower standard of health service than another province, this would be within its choice.

PROF. MEISEL: Who provides the definition of the floor, in essence?

MR. PERRY: A group of experts arguing in the next hundred years at least. No, this is not an unprecedented exercise. The Australians have done it now for thirty years or so through their Fiscal Grants Commission.

I suppose in a way all one is doing is transferring the argument from what specific programme comes next as to what specific group of services you put in this package.

PROF. McIVOR: I think it would be fair to say, in reply to Prof. Meisel's question, that if you are asking: Are we loosening our concern with minimum standards in very narrowly defined categories of services? - we would say "yes", that we are simply trying to guide the minimum

levels of services within broader and broader categories than have hitherto formed the basis of federal transfers to the provinces.

MR. PERRY: I suppose we have to concede there is a little bit of pragmatism in this; that the present trend is towards an increasingly autonomous attitude on the part of the provinces, particularly on the part of one province - and I do not say that in any invidious way because in economic areas this is just a matter of degree, between Quebec and Newfoundland; so that the chances of the federal government maintaining its fairly rigid approach of the past is becoming less and less anyway.

MR. GATHERCOLE: But perhaps, Mr. Chairman, I might add just one or two very small points. The first is that in lieu of having block grants or unconditional grants which would allow the provinces receiving federal money more flexibility in their use of those grants, it would be possible, of course, to havea system in which all the provinces would simply receive a greater abatement of federal taxation, as the province of Quebec does, and that they receive their funds in this way, which of course gives them complete flexibility in the use of the moneys that they obtain, or virtually so. That may be a course which the next round of fiscal arrangements might well take.

The other thought that I might make is that while all of us recognize the inevitability and the existing desirability as well of transfers to provinces which are not in the position to maintain a satisfactory standard of public services, we do nevertheless believe that regard must be had for those incentives and those economic forces which are going to ensure the mobility of both human and material resources, so that they may flow into productive uses. This, in the emphasis that is sometimes placed upon raising standards in some of the areas which have not shared in the federal prosperity, the need for providing funds in areas which are growing very rapidly, is often forgotten.

I think this is something Ontario has to be constantly emphasizing, because the more clamorous representatives who sit at the table at the federal-provincial conferences are all desirous of increasing the amounts of the transfer payments.

MR. PERRY: I think we would all subscribe to the theory that a government should be levying its own tax revenues. As against that, we have the requirement, which we all concede, that the federal government have sufficient tax powers to exert an influence upon the economy through the fiscal system. So that just where these particular requirements balance out is pretty difficult.

PROF. McIVOR: I was going to say, it is probably also true that what represents an adequate fiscal base for the federal government in effecting stabilization, depends in part, I think, upon the effectiveness of the co-operative process that could be set up with the provinces, so that the provinces are going to jointly undertake stabilization measures.

If, for example, the province of Ontario were deliberately to assume some responsibility in its fiscal operations for maintaining stability, this might mean that the share of the tax field left to the federal government might be correspondingly less than otherwise would be necessary.

As Mr. Perry said, the bulk of the necessary expenditures on the expenditures side of fiscal operations, is with the provinces, and the provinces certainly are in a position to greatly assist or greatly deter the federal government in its success with stabilization policy.

THE CHAIRMAN: There was a point you may have brought at the beginning, Harvey (excuse me if I am repeating it) but the fundamental principle that in the economic and fiscal field, the power and the proportionate position of Ontario is such that we need not take a passive role here, indeed that Ontario should be leading with suggestions and proposals and positions for a new financial

and economic approach; and that this is something, simply because we contribute such a large share to the overall fiscal requirements of the nation, that we have some good reason not to put it as crudely as to call the tune, but to take initiatives in measures.

PROF. FOX: To influence the pipers.

THE CHAIRMAN: Yes.

PROF. FOX: Have you thought about the problem of the extent to which Ontario's obligation fiscally runs to its own residents and to those of poor provinces in Canada? In other words, how much is Ontario willing to give up by way of allowing, say, a small percentage of the abatement that would come to Ontario, in order to allow for a greater payment in stabilization or equalization to the poor provinces?

MR. PERRY: We do not know. All we know is that for a hundred years it has been willing to give up something, I would think perhaps in an increasing amount over that period; and that this seems to be one of the things that is accepted by the government of this province. But how you put a quantity on it is something else.

PROF. CREIGHTON: I gather you are disposed to question this then, that is to say, it might go too far or far enough to interfere with other things which we judge equally important and

desirable?

MR. PERRY: Yes, we could impoverish ourselves, not only in this province but as a nation, by too large a drain out of Ontario.

THE CHAIRMAN: These are the things we have, and I think, Harvey, you would agree that we are probably ready to get something down now.

MR. PERRY: I think so, yes.

THE CHAIRMAN: For more explicit discussion by the committee. I wonder, are you hoping to leave it there for now?

MR. PERRY: I think so. We have concealed most of the tricks of this subject and the discussion would only bring them out.

THE CHAIRMAN: I said at the beginning that by reversing the order we would perhaps balance some of the disparities of earlier meetings. I did not realize that you would get quite such a short end of the stick, Bill.

DEAN LEDERMAN: Mr. Chairman, I was going to say that at this time it is a quarter after five, and I think our next session is at six, is it not?

THE CHAIRMAN: Yes. I suspect most people have had it.

DEAN LEDERMAN: Why don't we circulate the report of the constitutional sub-committee at this time by mail, and take it up in February?

PROF. CREIGHTON: Hear. Hear.

DEAN LEDERMAN: We had hammered out another resolution on the Supreme Court, which I think is in good shape now, but it can wait till February.

THE CHAIRMAN: This will not inhibit you, I take it, in terms of your separate report anyway.

DEAN LEDERMAN: No, I didn't think we were going to.

PROF. CREIGHTON: Not to that detail.

DEAN LEDERMAN: That we were going to get to that detail, and if we discuss this Supreme Court brief on this free-wheeling basis you have mentioned.

THE CHAIRMAN: Right.

DEAN LEDERMAN: So the report I was going to make tonight would be just a survey of the things the Committee has considered, and ending up with those three questions, if you still want that done, on the procedural ---

THE CHAIRMAN: Right, and would contain the Supreme Court resolution?

PROF. CREIGHTON: No.

DEAN LEDERMAN: Well, I can recite the Supreme Court resolution tonight if you want to have it.

PROF. MEISEL: Why not?

THE CHAIRMAN: Then I was going to suggest

if the Supreme Court resolution was in the report circulated, so much the better, because it would give further time for consideration.

DEAN LEDERMAN: The resolutions 2 and 4 of Professor Brady's brief, we did say ought to be accompanied by a memorandum of explanation, and the memorandum of explanation has not been composed yet. So the thing that is circulated before February 18th can be the resolution with the memorandum of explanation. So I think there is virtue in this delay at this point, and I do not plan to get into the substance of Supreme Court issues tonight unless the Prime Minister brings it up and we can discuss it or if anyone else brings it up, we can discuss it if the opportunity presents itself.

MR. GATHERCOLE: I was going to raise the question of how long it will take to just give a brief synopsis of what you are giving. Only, I think, take another five minutes.

THE CHAIRMAN: We could, but I have never yet seen this Committee take "another five minutes".

PROF. McWHINNEY: I think there are many hidden traps in this.

DEAN LEDERMAN: I have seen too many fine-sounding documents reveal their flaws after the first five minutes.

PROF. McWHINNEY: It would take an hour.

DEAN LEDERMAN: We will circulate this by mail and take it up next month. I think that is the sensible thing to do at this point.

THE CHAIRMAN: Before we break up, to recapitulate the procedure for this evening, I remind you we are due at the French Room at six in the Park Plaza. Then we move to the Rose Room for the discussion, which will be informal sitting there with armchairs around the room.

The Prime Minister is expecting to hear three brief reports on fact and on atmosphere -- partially on atmosphere -- of the issues before us, from each of the three committees. I have been over this in some degree with each of the chairmen, and we will follow the same order again tonight - cultural, economic, constitutional. Without doing injustice to the work, I think these can be fairly compressed. Dean Lederman will conclude his report with two or three procedural questions such as I referred to earlier, and the Prime Minister will go on from there. From then on it is free for all. I do not know when we will conclude, honestly.

--- The meeting concluded at 5.25 p.m.

ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

M E E T I N G

held at

950 Yonge Street,
Toronto

on

FRIDAY, FEBRUARY 18, 1966

VERBATIM REPORT OF PROCEEDINGS

ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

--- Meeting held at 950 Yonge Street, Toronto, on Friday, February 18, 1966.

PRESENT:

Mr. I. Macdonald (Chairman)

Prof. A. Brady

Prof. J. Conway

Prof. D. Creighton

Dean R. Dillon

Dr. G. Forsey

Prof. P.W.Fox

Mr. G. Gathercole

Dean W.R.Lederman

Mr. C. R. Magone

The Rev. Dr. L. Matte

Prof. R. C. McIvor

Prof. E. McWhinney

Prof. J. Meisel

Mr. H. Perry

Mr. R.N.Seguin

Prof. T.H.B.Symons

Mr.D.Stevenson)
Mr.R.Farrell) Co-Secretaries

--- At 9.45 a.m.

THE CHAIRMAN: Perhaps we might begin. I have one or two preliminary remarks to make.

The meeting on January 21st, I thought, was productive of a number of useful things. In the first place, the Prime Minister indicated his intention and wish to form a Cabinet Committee or group that could provide a broader base to receive and discuss our recommendations, and also to meet with us from time to time, as he did on that Friday evening at dinner. A little later I will say something about the prospects for initiating that process.

Secondly, I think we were reassured that the matter of unanimity was not essential; that it was acceptable to present alternative policy positions for discussion by the government in some cases with the advantages and disadvantages as a basis of policy advice.

Thirdly, I think we should take account of some particular matters which he stressed, and it seemed to me that the highlights there were the following. First of all, that we should give some fairly pressing attention to the matter of the amending formula and constitutional change; secondly, to the development and character of the federal-provincial conference; thirdly to the status of the associate state concept and

the development and change in that concept; fourthly, the position which Ontario should assume in the face of Quebec moving in the direction of unconditional fiscal authority.

This last point seems to me to be one of increasing importance, and for Ontario it throws us back at our old dilemma, which has been illustrated so often recently by Mr. Robarts, that, on the one hand we accept the importance of a strong national economy and national policy, and on the other hand we recognize the force of increasing obligation to provide economic and social services by the provinces. That force was amply demonstrated in the last provincial budget, I think, and our problem then has always been how do we reconcile the requirements for a strong national economy with the increasing fiscal requirements and financial requirements of the province? And, if as Mr. Lesage has made abundantly clear, Quebec will take as its stand the provision of sufficient tax capacity and tax-sharing to meet its own requirements in an unconditional way, and to follow its own priorities, then Ontario has to say: "Are we to follow the same path, or should we suggest some alternative?" And that there is a responsibility very heavily on our shoulders both by our central position and by our relative size in the total fiscal

picture.

Now, these were the principal points that emerged from the meeting. Finally, of course, from our side the report of the cultural committee, which will need to occupy all of our sub-committees with greater attention.

The second general comment, looking back, I think we have some positive attainments to our credit. As you know, the Ontario and Quebec speeches from the Throne on the same day had made joint announcement of the intention to proceed with cultural agreements and cultural arrangements, and I think we can take some modest pride in the origins of the initiative here.

However, I think in the next two months, in particular, we have got to try to pull all of our material together and bring it to a head, because, as I see it, certain events compel us to assist the government of Ontario to establish the position that she is going to take at some impending events, and these impending events will certainly make history, I believe.

First of all, in June the conference of Prime Ministers and Premiers will meet in Victoria, and the intention as far as we have it from the federal government is that that conference will certainly look not so much at detailed specific matters as they have in the past, but at the

whole Confederation picture and, in particular, at the course of events on the constitutional side and where matters should go in terms of discussing constitutional problems.

DEAN LEDERMAN: Excuse me, that will be a federal-provincial conference?

THE CHAIRMAN: Federal-provincial.

DEAN LEDERMAN: Not inter-provincial.

THE CHAIRMAN: Federal-provincial of Prime Ministers and Premiers.

Now, the second event is really a series of events, and this is the timetable leading up to the establishment of new federal-provincial financial arrangements for the period 1967 to 1972.

Working backwards, we are advised this way, that in order to implement these new financial arrangements for the period 1967 -1972, the federal government would need to be in a position to introduce the legislation some time in the late autumn. This means there will be at least, so we are told, two summit conferences on fiscal arrangements between August and October. Before there can be summit conferences of Prime Ministers and Premiers on the final fiscal arrangements, there will have to be at least three meetings of the Tax Structure Committee, which is a creature of the federal-provincial conference of Prime

Ministers and Premiers. These meetings of the Tax Structure Committee would have to take place between May and July, and they would include partial discussion of that Victoria conference.

This means in turn that the civil servants, the officials who will be engaged in preliminary skirmishes, will be meeting frequently between now and May. This means, in turn, that we civil servants have to begin to have some assessment of the likely alternatives and the relative interests of Ontario for its own sake and within confederation, to discuss and present.

This means that we have thrust upon us now the task of getting down to hard work. Looking at the possible outcome of fiscal arrangements, it seems to me, although this is inadequate and crude, that there are three broad things could happen theoretically. First of all, when we look at the rate of increase in the requirements for federal expenditures and compare it with the rate of the increase in the requirements for provincial expenditures, we see the provincial curve going up much more rapidly than the federal, and we are faced with the problem of gettingthe provinces the money to assume their responsibilities.

For example, as you know, in the last Ontario budget, of the total increase in expenditures forecast for next year, 73 per cent

of the increase was in the areas of education and health; so that the prescription is pretty clear and the obligations are pretty clear.

Now, three ways one could deal with this problem, I suppose, would be, first of all by completely reforming the constitution and turning over these responsibilities to the federal government, which is theoretical. The second is to have a radical re-distribution of the revenue system and turn the moneys over to the provinces, tax sources over to the governments to do the job, which raises serious issues on fiscal policy and the national economy and so on.

The third alternative is one which I frankly detect as an attitude emanating from Ottawa and as a hardening attitude in Ottawa. It was implied in remarks that the Minister of Finance made in reply to our last budget here, which, in effect, is: "If you need money, go out and raise it"; that is: "You can have double income tax. There is nothing to stop you from going out and raising your money, whether it is through 10 per cent sales tax or duplicating income tax and having provincial income tax levies; because we federal people need our money too". This is a distinct possibility.

Now, where do these two fit into the Committee? Well, it seems this, that those of us in the government having to contend with these

issues in a negotiating sense and in a steady sense -- these economic and fiscal matters are important in their own right, but of course they will also affect the whole flavour and character of the federation.

Therefore, we are thrown back in this Committee to our own concern with the broad canvas of affairs and with the creation of ideas that
2 perhaps countervail or strengthen the Confederation according to whatever movements take place in its practices.

I think, for example, that if you did have a radical re-division of the tax powers, if on the other hand one could devise ways of producing co-operative fiscal policy, then one might not, on balance, have weakened the federation, and this would be a true form of co-operative federalism. These are the sorts of things we should think about.

Also we should think about the broad implications of whatever technical arrangements are made, so that we are not looking at these financial arrangements in their narrow, technical sense, but in terms of the consequences they might have for Confederation in the very broad sense.

Well, as I have said, in the next two months the provinces have no alternative but to come up with a firm position of where we stand and what approach we are going to take. In our

work here, I think we have got to try and now look at all we have done and bring it together, bring it into focus in the broadest sense, so that the government will have these various inter-related matters before it.

Now, I wonder if there are any remarks anyone wants to make on this point? That is the picture, I think, which represents what we have before us today.

PROF. McWHINNEY: Is there any agenda for this as yet, for this Premier's conference in June?

THE CHAIRMAN: No. I know pretty well what is proposed, and it is pretty much as I have said, but the agenda has not been finalized.

PROF. FOX: It strikes me this fiscal problem is so critical that this Committee, even though it is not composed of many economists, ought to be paying more attention to the problem. Yet I am at a loss to know how we can really provide any assistance, and I am wondering if you feel that there is anything that any of these other Committees -- for example, the cultural sub-committee - could do to assist you. It is such a technical problem that I wonder what non-economists such as myself could do; but to my mind it is the crucial factor, and also it was pretty clear, I think, from what Mr. Robarts said in the

[illegible]

others, or everyone and put it together, I think [illegible]

[illegible]

[illegible]

[illegible]

anyone wants to add anything further? That is the picture I think, it is representative, that we have [illegible] here.

DR. [illegible]: [illegible] for this report. [illegible]

THE CHAIRMAN: No. I [illegible] pretty well what is proposed, and [illegible] I have said, but the [illegible] has not been [illegible].

DR. [illegible]: [illegible] is [illegible] this [illegible], even [illegible] to be paying more attention to the problem. Yet I am at a loss [illegible] we can really [illegible] any assistance [illegible] if you feel that there [illegible] any of these other Committees [illegible] sub-committee [illegible]. It is up to [illegible] than [illegible] such as [illegible] it is the [illegible] factor [illegible] pretty ready, I think [illegible] that [illegible] here.

evening he met with us, that this was really what was on his mind. This was the one issue that he really perked up on, and I felt responded to in most lively fashion.

THE CHAIRMAN: This is true. For example, this editorial (was it yesterday?) in the Globe and Mail that catalogued the various statements of the different policy-makers of Confederation. There was being great talk about it, and it goes back to a statement you made earlier, Paul, that we are compared unfavourably (although I think improperly) with Quebec.

I am always being told, for example, that we know exactly what Quebec's attitude is on fiscal purposes -- it is clear and explicit. They want their own control of tax resources, they want their priority, they want to run their own economy. "What do you people want?"

The answer is that we are not operating with the same sense of mission in this total cultural sense. We have gone as far only, as the Prime Minister has done repeatedly, in pointing out the dilemma which we face; but I suppose what we are trying to do now is resolve that dilemma.

PROF. FOX: Is there any way in which we members of this Committee could be of more use to you? I am thinking of the non-economists, who have never really done much in this field, I think,

yet in any of our deliberations.

PROF. McWHINNEY: Paul, surely the lawyers and the political scientists would have to come in. For example, when the Chairman outlined these alternatives, it seemed to me at least one of them would require massive constitutional consultations and re-wording of the B.N.A. Act, and the knowledge of how to re-word would depend in part on comparative studies of both constitutional processes and in other federations, but also inter-governmental arrangements. For instance, the Australian income tax system and the tax arrangements would have to be studied. It is an original confederation because it has simply been worked out more there.

So I would think these things could proceed, but I think it would turn to our Chairman, of course, to put priority or originate any consideration of the alternatives outlined.

DR. FORSEY: I hope in any consideration of radical re-distribution of revenues, the central provinces will not forget the Atlantic provinces; because it is all very well to give everybody the same right to use his tax any way he likes; this is fine for people in Central Canada and Alberta, British Columbia, where there is lots of tax. It is not so fine in Newfoundland, Nova Scotia, Prince Edward Island, New Brunswick, where there is very little to tax.

Simply to say: "Here you are. You have all the powers. Help yourself", I suppose it is fine for those who have lots to help yourself to, but not so fine for the Atlantic provinces who have not.

I hope this broader Canadian aspect of the thing will come in the deliberations.

PROF. McWHINNEY: You seem to imply, Mr. Chairman, that the third of these alternatives is that you might get concurrent Dominion-provincial powers to tax over all main areas, and a sort of vigorous competition, if you wish, between them in terms of what the taxpayer can pay. This would immediately make a mess of the existing constitutional dichotomy between direct and indirect taxes, I think, although the case law is a little more flexible.

THE CHAIRMAN: I do not think we can go too far in that direction, but it is a horribly complex process.

I don't know, George - you have been through this so often - whether you feel the present situation is more horrendous than any previous situation or not. Perhaps those of us involved are only reminded of the horrors through having gone through the exercise in the Tax Structure Committee, in which in broad panorama the facts are all laid out before us and we can have some

Simply to say [illegible] Help [illegible] I suppose [illegible] who gave [illegible] yourself [illegible] fine [illegible]

I think this however [illegible] in the next [illegible]

MR. McKINNEY: You [illegible]

Mr. Chairman, that the thing [illegible] these [illegible] is that you might get [illegible] powers [illegible] all [illegible] areas, [illegible] in terms of what the taxpayer can pay. This would immediately [illegible] considerations [illegible] states. [illegible] law is a [illegible] more flexibility.

CHAIRMAN [illegible]

I think [illegible] have been [illegible] the present situation [illegible] more [illegible] are only considered [illegible]

impression of how difficult the position is; because what it reveals, notwithstanding the important point made by Dr. Forsey, is that quantitatively the big deficiencies are in Ontario and in Quebec.

DEAN LEDERMAN: You mean the big advance in the provincial requirements.

THE CHAIRMAN: For revenue.

MR. GATHERCOLE: Because of the rapid growth of expansion, rapidly growing economy, and it needs far more money than the economy of slower growth -- not that that other economy is not to be considered as well.

Mr. Chairman, if I might make an observation on this, I think the federal and provincial agencies individually and collectively are in a much stronger position to deal with this problem than they have been before.

Certainly the problems are massive in terms of the amount of money involved. Nevertheless they are better qualified with respect to both personnel and also the mechanism by which these matters are being discussed, than ever before.

However, I am bound to admit this, that I find it very difficult to see in my own mind where an Advisory Committee on Federation gets into the matter of the re-shuffling of taxes.

I do not think there is any facile solution to this problem at all which would provide a

workable answer. I think it is a matter of just bargaining.

Mind you, we have the reports of the Royal Commission on Taxation and the Commission that Dr. McIvor is on, the Ontario Tax Committee, and they will have many reports which will no doubt give you some guidance; but in my judgment in any event it will come down to some negotiations between the federal government and the provinces, as to how the revenues and the taxes should be distributed, and that is a matter of negotiation and bargaining.

One of the crucial questions(Mr. Perry has made some observations on this in the past) is whether the federal government's rate of
3 expenditure is such that it will have some surplus revenue. In other words, with the growth of the economy, its revenues will grow more rapidly than its expenditures under existing departments; and therefore it could back up in some of the tax fields to allow the provinces to take up some of the slack.

If that could be done, I think the people would be very pleased about it, because it would not mean an increase in taxatbn; but there was one other further consideration that you did not mention, Mr. Chairman, namely, whether the government could say: "Well, with the expansion

of the economy --" and I am thinking of all governments --"with the expansion of the economy there is inevitably going to be a growth in revenue. Therefore, within some reasonable limits why should not governments tailor their spending programmes to the increase in their revenues?" Which is a possibility, so that you can re-shuffle within the present federal-provincial tax structure the taxes you have, but it does not involve the federal government saying: "Well, we need all our revenue, and if you want more revenue over and above that which was channelled upon the expansion in the economy, you raise rates."

The other alternative is to try and devise an expenditure programme which will enable the governments to live within the tax structures they presently have; there is the other alternative.

PROF. SYMONS: Mr. Chairman, I appreciate and respect Mr. Gathercole's view that the agenda and work of such a conference is going to be in practical terms very much a matter of bargaining and negotiation; but I think that particularly in terms of the general context of Confederation issues that it is important for the Ontario representatives perhaps at this coming meeting and successive ones more so than in previous ones to base these money negotiations upon some concepts of what kind of country Canada is and they want it

to be, and upon what kind of federal system we wish to maintain and develop; so that particularly right now, in the general context of uncertainty about Confederation, I think that there is a need to approach these negotiations, which will still be, I am sure, in practical terms, bargaining with money matters, from a basis of some concepts about the nation, about the federal system. I think this is an area in which we can perhaps be of service to the Premier and to those who represent Ontario.

THE CHAIRMAN: I think that is put very well, Tom, and that is the sort of thing I was after: that it seems to me always and obviously there is a danger for technicians to look at the mechanics of a particular problem and not to see it in the context of the whole situation. So that in these broader terms I think we need some guidance.

Now, let me give two illustrations that come to mind. One is the question we had discussed earlier: at what point do you, willy-nilly, arrive in an associate state situation?

If, for example, Quebec is to ask for its sources of tax revenue with its own control, supposing Ontario were to take the same position: might not Ontario be beginning to move towards an associate state position in fact; and, if so, what does this do to the whole fabric of the nation?

The second illustration, I think, is the point at which the federal government dug in their heels on the Mother's Allowances and so on, on the ground that if you are going to have a nation, so to speak, there must be some principal points of contact between the national and federal government and the people of the nation; and if that is to be redistributed across the board, once again what does this do to the Federation and the nation, on the assumption that the whole is something greater than the parts?

If one can come to grips with some of these philosophical questions, that is to say, what are the philosophical and political and national consequences of the various approaches to technical matters, I think this is the sort of thing that would be very useful.

DR. FORSEY: I am not quite clear what is meant by the phrase used here: "moving to unconditional fiscal authority". Is the position that the Quebec government wants to opt-out of the whole business of taxing or what?

THE CHAIRMAN: As I interpret their present position, it would appear to be: "Let us not have any more shared-cost programmes in which we opt-out. Let us not have any more of our priorities made in Ottawa"; simply give us the two progressive and elastic sources of taxation --

the income tax and the corporation tax -- to the extent that we require them to conduct our own business in the economic and social sphere, and to do it according to our own priorities of disposition."

DR. FORSEY: What exactly does this mean, that in effect they are saying: "No Dominion income tax in Quebec at all, no corporation tax in Quebec at all", gone to that point?

THE CHAIRMAN: Not necessarily. As I say, it could be either through redistribution or through, I suppose, double taxing.

PROF. McIVOR: Yes, I think so.

MR. SEGUIN: At the moment the claim is for concurrent Quebec and Dominion powers in relation to income tax and corporate taxes.

THE CHAIRMAN: They have not specified whether they want it redistributed.

PROF. McWHINNEY: It could become an exclusive demand.

THE CHAIRMAN: It could be.

DEAN LEDERMAN: This is concurrent at the moment, is it not? I wanted to make the point, and I think this may illustrate what Tom and Eugene have been saying. The distinction between direct and indirect taxes, this is where, it seems to me, politics, economics and constitutional law come together.

This was originally linked, I think, to the plans for national development of the country, opening up of the west and all the rest of it. The principal motive for the distinction between direct and indirect taxes, I think, was to prevent inter-provincial tariffs, and to create one free trade area.

Now, as this works out, I think the prohibition on indirect taxes by the provinces has simply forced them into an expensive way of collecting sales taxes.

I would see no great constitutional or political difficulty about permitting the provinces powers of indirect taxation, provided you maintain the composition in section 121 of the British North America Act. There must be no inter-provincial tariffs -- in other words, that the indirect taxes must not be so contrived as to be tariffs in a broad sense; not in any naive narrow sense.

This is one of the things that one has to worry about very much, I think, in any redistributinn of taxing powers; but I think the provinces could be given powers of indirect tax, provided this safequard was built in and maintained.

PROF. BRADY: There would be another safeguard too - the protection of the equalizing idea. I do not think you would hold together

the country if you did not hold on to that principle. The outer parts would certainly become very dissatisfied as they were in the past for a certain period in our history, and you might have separatism even more potent, for example, in the Maritime provinces than in Quebec; and what kind of Confederation you are thinking of or that you envisage is related to what you do in fiscal matters.

PROF. McIVOR: I think, Mr. Chairman, in part answer to Dr. Forsey's question about the
4 significance of these recent demands for unconditional provincial fiscal autonomy: my interpretation of what the Quebec government has been saying is that as part of the present arrangements opting-out from joint-cost programmes takes place and the provincial government is given equivalent tax room in its own right; and it is a requirement that these additional funds be employed to maintain a programme in the particular area roughly comparable to the programme that would have been followed in the joint-cost federal arrangements.

I interpret what Quebec is saying that they wish the unconditional use of these funds, of this additional tax room, no obligation to provide an equivalent programme in the particular area and, indeed, no obligation to use in that area at all.

DR. FORSEY: Yes, they have just touted

about $9 million of these university grants.

PROF. McIVOR: Yes, so one of the main implications is to be what you might call a common national standard, which becomes more inclusive.

PROF. CREIGHTON: Although they have given $100,000 to McGill University.

DR. FORSEY: Reading over the proceedings of the last meeting, I must say I was very much impressed by the report of the fiscal and economic committee through Mr. Perry's report. I thought it laid down pretty clearly the general principles that ought to apply here, with the single exception perhaps that more might have been said about looking after the forgotten third; but it seems quite clear that if you are going to maintain anything like a recognizable Canadian economic community, the central authority must have enough taxing power to enable it to establish and maintain full employment, to look after the economic growth, cyclical budgetting and this kind of thing, to look after something in the way of equalization grants for the poorer parts of the country. If you reduce its taxing powers below that, then I think you are headed straight for the disruption of the country.

Exactly at what point -- as I think Mr. Perry indicated in his report as I recall it -- exactly at what point you say: "This is enough.

Beyond this is too much" - was extremely difficult to say.

Being so far removed from economics, I should not venture to lay down any standard on that. This should be left to the economists who are in close touch with the thing, but these seem to me to be guiding principles, and I thought they were pretty well set forth in the sub-committee's report.

PROF. McWHINNEY: You need a ruling at some stage if there is concurrent Dominion-Provincial power, for example, in income tax, corporation tax (in fact existing now); you will need some ruling at some stage as to who has priority of collection in the event of vigorous, virile competition between the two.

This is a problem that has come up in other federal systems and been faced. The difficulty with the B.N.A. Act and the simplex division of tax, is that the Act was drafted before income tax had been heard of. As you know, you had to make constitutional amendments to make it part of the American tax structure. The B.N.A. Act does not face up to these issues, and if Quebec, for example, or any province - this province is going to get very vigorously into the social health field, and you might get income tax to the penal stage where one citizen literally might be taxed more than his income, or you might get to the stage of priorities

and there will be a political choice obviously in the Prime Minister of priorities in collection, but it will have to be in legal form and I think there is a very clear gap in the constitution due to the supervening development of new ideas.

After all, income tax only came in with World War I really as an economic phenomena.

DR. FORSEY: Here, yes, but in 1867 the Fathers of Confederation knew there was income tax in Great Britain. That was an institution they were highly familiar with.

MR. PERRY: There has been income tax in Ontario municipalities from the 1830's. You can trace income tax back in New Brunswick to the late 18th Century.

PROF. BRADY: All of us in Confederation seem to be influenced by the idea of general statements agreeing on the taxing classification.

DR. FORSEY: I think it was an oversight. You have to see it in the light of what they thought Confederation was going to be. So the new things that might arise were in effect consigned to the central authority. They said: "Here are certain specific things that belong to the provinces" and they are very narrow things, " -- and anything else belongs to the Dominion".

So if you had said to them: "What about these problems of competing Income Tax, they

would have laughed at you probably, because they would say: "There cannot be any competition because the provinces will not be in a position to do anything important enough to come into touch with each other on, certainly. They simply have not got power".

If you said: "What about the big developments taking place? Now, perhaps this might go ahead, and this", well, this was a period of the cover-printed package - everything which is not specifically allotted to the province belongs to the Dominion.

(Page 24 follows)

There is a vast deal of hindsight, and very poor hindsight, about this supposed lack of foresight of the Fathers of Confederation. For instance, people say they did not realize there was going to be industrial development and so on, but the cold fact is that Sir John A. MacDonald's government introduced three factory bills in the Parliament in 1880, and only dropped them after it was suggested that the powers of the Dominion in the opinion of the Judicial Committee were very much more restricted than they had supposed.

When the first factory act was passed in this province, it was sent to Ottawa by the Lieutenent Governor in advance with a note that he had grave doubts about whether the province had any jurisdiction in the area of factory legislation, and thought it should be referred to the Supreme Court of Canada for opinion.

This is the kind of atmosphere in which the Fathers of Confederation operated. They were not such a set of ignoramuses or kids as is sometimes said about them by the intelligentsia of the present day. They knew very well what they were doing.

Having wrought the havoc it did upon our constitution, it now poses a whole series of problems which Sir John and his colleagues never could have supposed if they had been endowed with the wisdom of all the sages of all the ages, could never have

supposed would arise.

PROF. BRADY: I think, Mr. Chairman, we could carry on this discussion or extend it quite academically, and it would be very interesting, although I do not know if it would necessarily be relevant at the present juncture.

I think I would like to say, however, that the Fathers of Confederation did not envisage just what the powers with the provinces would imply in expenditures. George Brown said at the Quebec Conference that the powers would be insignificant. Now, they seemed insignificant in 1867 because the state was not spending such large sums of money on education and it was not building automobile roads, and it was not doing a lot of other things.

It is these things, after all, that create the present kind of problem. The provinces have power to do these things, and to do them they need more revenue; and Quebec in a sense, in much of what it has done hitherto, has been pressing to get the federal government to vacate some of the activities that they entered into in the provincial field, and allow more revenue to the provinces to do the kind of tasks that, under the constitution, in the British North America Act, lie on them. However, this need not be argued, I do not think, at the present juncture.

MR. PERRY: May I ask a question which has no relevance whatever to the preceding very

[illegible]

PROF. [illegible]DY. I [illegible] quite [illegible] and I [illegible] thing, [illegible] necessary [illegible] the present [illegible].

I think I would like to say, however, that the [illegible] of Confederation [illegible] that [illegible] the [illegible] in [illegible]. Now it seems [illegible] and [illegible] and it [illegible].

[illegible] the present kind of [illegible] power [illegible] things [illegible] more [illegible] get the Federal Government to [illegible] authorities that they entered into [illegible] the [illegible] to take [illegible] in the [illegible] at the [illegible].

[illegible]

enlightened and interesting discussion? Is this pattern of timing very urgent, being burdened with the knowledge of what one Royal Commission is going to recommend, and you have another gentleman from another Royal Commission sitting beside you whose proposals will probably be fundamental? I doubt if they will be as fundamental as our own, and I am not thinking of the Federal-Provincial field particularly but the sort of thing that we are recommending for the Federal tax structure; and it is of such character that five years from now
5 people are still going to be wondering what we meant by that. It is going to be dumped on to the politicians some time in April or May, almost in the midst of the formation of their ideas and, what really frightens me, within a month or two afterwards it will be assumed that they have absorbed all this and come up with some wise decision and embody it in legislation. It just terrifies me.

THE CHAIRMAN: This is one of the grim ironies of the situation that while the various tax committees have been sitting, the five year timetable has rolled around.

I used this very point Monday at a meeting of the federal-provincial continuing committee on economic and fiscal matters, both in the meeting and privately with the Deputy Minister of Finance,

because it seemed to me that the Carter Committee in particular reporting in the spring, there was obviously going to be no time for absorption, for commentary, for public discussion, for the type of feed-back that goes on, and for implementation.

The reply I got was that because there was going to be no time for this, that we simply would have to proceed with our negotiations for the next period, but that the work of these committees would nonetheless affect practices in the longer run and the tax system in the longer run and so on. The interpretation I took from that then was that we get on with the job now and for the present negotiations the reports may not have great impact.

MR. PERRY: This is most unfortunate.

MR. GATHERCOLE: You are faced with the hard fact, Mr. Chairman, that the agreements expire at the end of this year.

THE CHAIRMAN: That is true.

MR. PERRY: Yes, George, but things have been extended. The Bank Act has already been extended twice.

THE CHAIRMAN: We sounded this out very carefully, of course, and I can only report here privately, of course, that I saw absolutely no disposition.

MR. STEVENSON: You can add that this is not just the federal government; it is most of the

other governments. We certainly went to that meeting feeling our ideal solution would be a one year extension.

THE CHAIRMAN: I put this on the table at the beginning of this meeting, and there was a unanimous accord. It was not even discussed.

DR. FORSEY: I think this is extremely dangerous. I think Mr. Perry's point is very important. The whole country may be saddled with sort of a half-baked arrangement which will curse us for generations.

PROF. McWHINNEY: It may be dangerous but it is apparently a fact.

DR. FORSEY: I wonder whether we need to be such idiots about this thing, whether there would not be some kind of uprising of public opinion about having this sort of thing foisted upon us? Are we going to be bullied into accepting a series of arrangements which have not been properly thought out, upon which the people of the country have had no opportunity to pronounce, and just be faced with a fait accompli?

I think it is most dangerous, and I think every possible effort should be made by anyone who is in a position to make protests, to make it loud and strong.

PROF. McWHINNEY: This is a political judgment for the Premier to make. It seems to me, on our

expert committee, if this is proven as a fact, as something that is going to emerge as a fact, we have to prepare the scientific material.

MR. MAGONE: Surely it is more than that. It is a judgment about the future of Confederation, and that is the kind of judgment we ought to have something to say about. Therefore it seems to me we in the province of Ontario, ought to say that in that case we shall not co-operate.

THE CHAIRMAN: Let us put it this way. I think this is clearly a matter of high importance to the future of Confederation, and it would be entirely within the terms of the Committee, I would judge, if this were felt to be advisable, to offer this advice to the Prime Minister of Ontario. He may then choose or not choose to decide that this is a case where he might well wish to make a public issue or private issue of it, and pursue this matter, I don't know.

Certainly this is the type of thing that requires not, so to speak, technical judgment, but discerning judgment of a body of this kind as to the course of affairs. Certainly I think it would be in order.

MR. GATHERCOLE: Mr. Chairman, there might be a great deal of merit in it. I was going to raise the question: Supposing it was deferred for one year, would the conclusions emerge from

the reports that would be made available to people as to what would be the most appropriate solution, after one year's consideration?

For instance, I am thinking about, as Professor Forsey said and others or all of us recognize, that the Maritime provinces, the least-favoured provinces, have to be well supported by the Federal treasury, and that is the appropriate way to do it. Therefore the Federal government should, for that reason and others, such as maintaining economic stability and thrust, have a strong position in the income tax field.

Therefore if the provinces need more money, maybe it would be better to re-shuffle taxes, to readjust the taxes, so that the provinces are not constantly eroding the Federal government's authority or position in the income tax field, but rather extending their tax-raising productivity in the sales tax field.

Then the suggestion was made by Dean Lederman - and this has been made many times before and it was almost adopted, and if Premier Duplessis had been prepared to go along with it it would have been an amendment to the constitution a number of years ago, but he did not consider it was worth while. He had already got the sales tax, so he did not think he needed to supplement it by indirect sales tax.

However, what I am concerned about in this situation, and this may be one of the several things that have been discussed, that this Committee could give you and the government some advice on, and that is the matter of: If you have indirect sales tax operated by the province, would it lend itself to the erection of provincial barriers? Is there any way that you can inhibit that, that would prevent it?

That is the big question in my mind in the light of the pulling away of some of the provinces, which was not nearly as strong back ten years ago when this was being discussed by Douglas Abbott and others. There was not that pulling away, the centrifugal forces were not nearly as strong then as they are now.

This is the big danger, but I think maybe you gentlemen who have legal experience, you could throw some light on this, which I think might be very helpful.

PROF. FOX: This seems to me to be a wise solution, a wise suggestion that might be explored, perhaps under the aegis of your economic sub-committee; that is, the point of the limits you can go in allowing the provinces to exercise indirect taxes without getting into a sort of "buy at home" policy and discrimination against products produced in the rest of the country.

I would like to revert to the broader point. It seems to me from what little I have heard from Mr. Perry and others here, that this question of being forced to make radical changes without having been able to absorb the work of two extremely important Royal Commissions, is just ludicrous. Perhaps this group can most effectively assist you by going on record today that we all agree that it would be wise to extend the text of the present agreement for a year, and let you carry this to the Prime Minister.

On the point of your suggesting it at the conference, being turned down, that is not too unusual. Then you have to say: "Let us go back and hammer it out again".

It seems to me if Ontario, as the largest, richest province, were to be quite intransigent on this and say: "Look, we feel you have got to postpone it", you might make the point -- particularly if you worked through the Federal government and did get them on your side. I mean, stranger things have happened in Federal-Provincial relations, and I am very convinced of what Mr.Perry says this morning, that it would be ludicrous to go ahead.

MR. PERRY: Neither I nor Mr. McIvor, I am sure, would want it to be felt we were advocating adoption of our proposals. This is furthest from

our thoughts. These studies are important and have been done with care over the period of years, and surely they deserve more attention than can be given to them in a month or two timetable.

PROF. McIVOR: I would like to go on record as supporting very strongly what Mr. Perry has said from the floor and others. A great deal of time and effort has gone into the report of the two Royal Commissions, with which Mr. Perry and I are familiar.

Whether the proposals are in the end adopted, or whatever are adopted, the basic point is we are at a stage where there are going to be fundamental changes in Dominion-Provincial fiscal relationships. We have what we think are useful suggestions for consideration along these lines; and to be forced at the point of a gun to revise Dominion-Provincial fiscal arrangements without having any opportunity to digest and evaluate what these reports might contribute, seems to me to be just absurd.

I am sure that if this Committee were so disposed, the forwarding of a recommendation to the Premier on these grounds, pointing out the relevance of the consideration of this material for the whole framework of Confederation, would be highly welcomed so far as we are concerned.

PROF. CREIGHTON: Might we suggest,

Mr. Chairman, that the fiscal and economic committee might draft such a resolution today for presentation to this body in full committee before the conclusion of our proceedings.

THE CHAIRMAN: Dick?

DEAN DILLON: I would like to support this and also suggest that if we are going to recommend delay, that we should carefully consider whether one year is sufficient.

MR. GATHERCOLE: Yes.

DEAN DILLON: It is pointless to suggest something and then only discover that one year is not really going to accomplish much.

PROF. BRADY: Is it necessary to specify a period?

MR. STEVENSON: One point on that, Mr. Chairman, I think one of the reasons why the other jurisdictions in particular are at present frankly against any kind of extension is that they feel there is an immediate fiscal problem, and if there were to be any extension there would have to be some kind of interim arrangement to tide over the situation. Now, whether or not any such resolution from here should have a suggestion to make about interim arrangements, I am not sure. It might be considered.

THE CHAIRMAN: Could I suggest two things. First of all, before the suggestions, may I say

that I think this discussion has provided ample proof of the proposition that although there are technical questions at the base of the matter, there are ample broad areas affecting the character of Confederation that we should consider.

I suggest that in the course of the day the economic and fiscal sub-committee draft a resolution, complemented by whatever other technical requirements might be necessary as Mr. Stevenson has suggested, for discussinn at our plenary session at the conclusion of the day; secondly, that whether this is successful in the ultimate sense or not, the Committee and the sub-committees, I think, from the broad point of view should be considering all sections of economic and fiscal positions. I think our economic and fiscal committee probably has been a little slow at providing grist for the mill. However, today, the series of papers requested which we have been carrying forward among our meetings, will be presented, and I think we had better get this report we have in today out quickly to the rest of the Committee for the general guidance and discussion as a discussion of the technical issues, from which general comments can flow. Then in the next two meetings in March and April, we could presumably work to some general propositions from that technical advice, if that is agreeable.

PROF. McWHINNEY: Anyway, this would leave enough time for contingency planning in the event that your political hunch that a proposal of this nature would not be successful, that your political hunch is correct.

THE CHAIRMAN: You see, the continuing committee on economic and fiscal matters, first of all is, of course, a committee of civil servants, but it is the civil servants that speak very much for their governments, so to speak.

Now, we went putting out this feeler, and in my judgment we thought any reaction was not just the feelings of the group of civil servants: they were clearly reacting positively on behalf of their governments.

However, if the Prime Minister of Ontario were so disposed as to take this as an issue for public consideration and discussion and of high importance to the future of Confederation, if he would choose to do so, we would have furnished him with important assistance.

MR. GATHERCOLE: Mr. Chairman, the point Mr. Stevenson made might be a very valid one, and I think any resolution that went forward from this Committee might have that attached to it; namely, that there should be some adjustment, and if this were done, if the Federal government were prepared to concede something over the course of a year,

some little additional revenue to the provinces, I am sure much of the opposition which you have sensed might evaporate.

THE CHAIRMAN: One cannot be completely negative about it.

MR. GATHERCOLE: I think there is merit in this. I question myself whether one year would be sufficient time to enable individuals to go over the contents of these reports that will be forthcoming and to arrive at conclusions from them. I think it would be closer to two years. If these agreements do go into effect for a five year period, then it is 1972.

MR. PERRY: Nothing will be done.

MR. GATHERCOLE: Before any substantial changes can be made, and these reports will be fairly dead by that time.

DEAN LEDERMAN: All kinds of new vested interests will close around these arrangements. It will be very difficult.

THE CHAIRMAN: There is some slight precedent here. Last December at the meeting of the Provincial Treasurers and the Minister of Finance at Ottawa, the question of federal assistance to universities was raised and, as you know, the Prime Minister of Canada had in the election campaign promised a Federal-Provincial conference on universities financing.

Now, the Treasurers in their meeting in December in Ottawa, unanimously said: "We have not time for a technical discussion and a decision on the technical and mechanical aspects of these arrangements, prior to bringing down our provincial budgets in February. We need the cash. We do not care how it is done. We need the cash and crash programme assistance. Therefore, let it be understood that we will receive some cash assistance prior to our budgets so that universities can make their budgets for the following year. Then when there is an opportunity, one can prepare properly for a Federal-Provincial conference on university financing".

So this was done. As you know, the only trouble was that the form that the crash programme took had some complications in it, both for university planning and for provincial budgetting. Nonetheless, this was the decision on principle that was taken there.

DEAN LEDERMAN: It is very interesting, that the original precedent for opting-out was the financing of universities.

THE CHAIRMAN: Yes, it has come the full circle.

DEAN LEDERMAN: Here is the precedent again. Would I be right to take it that if Mr. Lesage comes successfully through his impending election - and I think the prognostication is that it is impending -

that he will then be able to be more flexible in the timing of this proposal for a year or two delay? If it were to follow the Quebec election pretty closely, he might find himself able to go along with it; whereas he would just throw up his hands right now as a matter of the political position.

THE CHAIRMAN: This is an interesting point. Frankly, I do not feel confident to make this kind of judgment and I had wondered, but it is quite clear that they are intending to go to their people in the autumn.

DEAN LEDERMAN: It's in the bag?

THE CHAIRMAN: I should not say this, but
7 I have this impression.

PROF. McWHINNEY: Makes a difference, though.

THE CHAIRMAN: Yes, the point is they are going to be rather busy between now and then, and this is the time all the negotiations are supposed to go on. I was a little surprised, therefore, that they were not more sympathetic to the delay.

MR. STEVENSON: One of the key problems there, Mr. Chairman, is that the Boulanger Commission has now reported, and its report was such that the government almost said it accepted it right away; so that it does not have this internal gap in other words of analyzing the results of the

Royal Commission.

THE CHAIRMAN: Mr. Boulanger was at this meeting and said rather assuredly: "Well, of course, our committee has got its report in".

MR. PERRY: It has got some of its report in. Perhaps I should not reveal this and I reveal it in confidence in this room, that we kept very closely in touch with the Royal Commissions in Ontario and Quebec and, in fact, at an early stage with those in Manitoba and Saskatchewan as well. It was agreed that there were certain broad areas of the tax system -- and I need only mention income tax as being one of them -- in which these provincial commissions would not be able to mount the sort of research programme that we could (at one time we had a staff of something like a hundred people on the research alone); and that these areas would be left substantially to the Federal Royal Commission to cover.

It is rather clear from the Boulanger report that the Boulanger report was written almost in recognition of this; and that therefore in a sense, had this arrangement not been made (and you would corroborate this, Mr. McIvor) these provincial reports would be much more elaborate in certain areas than they are, and in fact can almost only be read when one has the federal Royal Commission report.

THE CHAIRMAN: Well, we have a very brief

report from the research policy sub-committee, and perhaps we could take our coffee to our places and we can run through this and then get on to our sub-committee meetings.

--- Short recess.

THE CHAIRMAN: The research policy sub-committee met on February 3rd and had a fairly extensive review of matters of business and items in process. I would like to ask Professor Creighton if he would report on behalf of the committee today.

PROF. CREIGHTON: The Chairman asked me to report or, rather, to read this report, apparently on the assumption that he would like a little variety in the presentation of material this morning. I think there is sufficient variety to his own lively voice, but however I will read it as I was instructed to do.

Present were Professors Creighton, Fox, and Brady, and Messrs. Macdonald, Farrell, Russell and Stevenson.

"1. Letter from Dr. Forsey

"Mr. Macdonald said that he had "received an interesting letter from "Dr. Forsey --"

I would have added "valuable" --

"-- commenting on the report submitted

"by the cultural sub-committee.

"2. Summaries of Papers

"It was agreed that the summaries of "all the papers prepared for the Advisory "Committee should be placed in a common "format and put into binders."

If I may observe parenthetically, you will have all the original material, and then we will have beautifully collected on a similar level in a common format, quite an assemblage.

"These summaries could also include relevant "papers not specifically prepared for "this Advisory Committee.

"3. Meeting with the Civil Service Commission

"Messrs. Macdonald and Russell reported "on a meeting which had been held with the "Chairman and staff of the Civil Service "Commission. It was agreed that Messrs. "Russell and Stevenson would collaborate with "the Civil Service Commission in obtaining "the maximum amount of information possible "for the Advisory Committee from the material "being collected by the Commission for "the Royal Commission on Bilingualism "and Biculturalism."

The Civil Service Commission would collect, that is,

"4. Study by Professor Fox

"Mr. Macdonald reported ona conversation

"he had had with the Minister of Education "regarding the proposed study by Professor "Fox of French instruction in the public "schools. It was agreed that a meeting "should be set up by Mr. Macdonald for "himself, Mr. Davis, and Professor Fox. "Professor Fox agreed to proceed at least "with a factual report for the Advisory "Committee on this subject. It was agreed "that the Leduc study should not be sent to "the Prime Minister.

"5. Study by Professor Watts

"Mr. Macdonald reported that an "arrangement had been concluded with "Professor Watts who would be preparing a "paper during the summer on second chambers "in other countries of approximately 50 "pages in length.

"6. Paper by Professor Creighton

"Professor Creighton agreed to proceed "with his paper on the Canadian Senate "which would be approximately 25 pages in "length."

These are both studies, I assume, which can be carried on during the summer if we have not run into the conclusion by that time; and perhaps at least the second one referred to will not be very important by that time or other things may be more

important.

"7. Paper by Professor Rowat

"Mr. Macdonald read a letter from "Professor Rowat on the terms involved in "preparing a study on the status of Ottawa. "The Sub-Committee agreed that the fee "suggested by Professor Rowat was acceptable "and that the paper should be prepared by the "end of August. It will probably be between "50 and 100 pages in length.

"8. Research Contracts

"Mr. Macdonald reported on his contacts "with all of the people who had been asked "to do research papers and the fees which "had been established.

"9. Cultural Sub-Committee

"The status of the various subjects "being dealt with by the Cultural sub-"committee was discussed. It was agreed "that all committees could discuss the "cultural sub-committee's report for part "of the meeting of February 18th. It was "suggested that further work be done on "the appendices to the report by "Elizabeth Way. It was suggested that "excerpts from the Ontario and Quebec "speeches from the Throne regarding Ontario "and Quebec cultural exchanges be circulated

"to all members. It was agreed that the "subject matter of the Rowat paper on the "status of Ottawa concerned both the "constitutional and cultural sub-committees.

"10. Economic Sub-Committee

"It was agreed that the staff of the Economics Branch might prepare some material "relating to discussions in the economic "sub-committee which could be circulated "to all Advisory Committee members. It "was suggested that summary notes taken from "the economic sub-committee's report be "circulated to the Committee.

"11. Constitutional Sub-Committee

"The status of the various subjects "dealt with by the Constitutional sub-committee "was reviewed. It was suggested that the "paper on international arrangements of "Ontario Government departments and agencies "be followed up by a law student who will "be working in the Department of Economics and "Development from the month of March. After "some discussion, it was agreed that "Professor Creighton would do a paper on "the period of Canadian history most "closely resembling associate states - "from 1841 to 1867. It was agreed that "both the cultural and constitutional

"sub-committees should develop their
"discussion of the principle of an
"associate state.

"12. Meeting with the Prime Minister

" There was some discussion of the
"priorities to be followed by the Advisory
"Committee as a result of the meeting with
"Mr. Robarts. It was agreed that the
"question of the Fulton-Favreau formula
"should be referred to the constitutional
"sub-committee for discussion and that the
"problem of federal-provincial conferences
"could be discussed by all sub-committees,
"although, to some extent, it would be
"covered in the paper by Professor Brady.
"Professor Fox suggested that someone might
"be asked to go through carefully all the
"records of federal-provincial conferences
"since 1945 in an effort to pick out some of
"the important reasons for present problems.
"Professor Brady suggested that the most
"important requirement with regard to
"federal-provincial conferences is
"additional advance consultation among
"governments.

"13. Future Meetings

"It was agreed that there would be
"a short plenary session at 9:30 at the

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible].

"12. Dealing with the Prime Minister

"There was some discussion of the
"proposition to be [illegible] the Advisory
"Committee as a result of the meeting with
"Mr. Roberts. It was agreed that the
"question of the Rutton-Sayman formula
should be referred to the Institutional
"sub-committee for discussion and that one
"problem [illegible] federal-provincial [illegible]
"should be [illegible] discussed by all sub-committees,
"although [illegible] to some extent, it would be
"covered [illegible] the report by Professor Brady.
"Professor Fox suggested that someone might
"be asked to [illegible] thought carefully [illegible]
"the [illegible] [illegible] [illegible] [illegible]
"[illegible] [illegible] [illegible] [illegible] [illegible]
"the [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
"[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
"[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] among
"[illegible] [illegible]

"13. Future Meetings

"[illegible] [illegible] [illegible] [illegible] [illegible] be
"a short January [illegible] [illegible] [illegible] at [illegible] the

"meeting of February 18 to hear the
"report of the policy research committee.
"The sub-committees would then meet during
"the day with a sandwich lunch being brought
"up to the board room. The sub-committees
"would be expected to discuss the report
"of the cultural sub-committee as well as
"subjects of particular concern to
"themselves. There would probably be
"another plenary session to close the
"meeting from about 4:00. It was agreed
"that the March 18 meeting would consist
"of a meeting at 950 Yonge St., during the
"day to be followed by an evening session,
"probably in the Park Plaza. If the Prime
"Minister and key members of the Cabinet
"were available, they would meet with the
"Committee in the evening. If Professor
"Brady's paper were ready in time to
"distribute well in advance of the March
"18 meeting, the bulk of the meeting would
"be devoted to discussion of it."

The meeting adjourned at 4:30 p.m. Respectfully submitted, sir.

THE CHAIRMAN: Thank you very much. One or two points, Don. Do you want to report anything further on the Civil Service Commission and the administrative use of French?

MR. STEVENSON: To the extent, Mr. Chairman, that Mr. Russell and I had another session with Dr. Faleh in the Civil Service Commission the other day. Dr. Faleh is responsible for preparing and distributing and analyzing two questionnaires, the results of which will be submitted later to the B and B Commission.

The first questionnaire is a simple survey of Ontario government civil servants, and which covers a number of their normal working practices, their contacts with different language groups, their own knowledge of different languages, and a number of areas which are of fairly close concern of the cultural sub-committee's work.

This questionnaire had already been established in contact between the Civil Service Commission and the B and B Commission people and is on the way out. We hope that the results will be in in about six weeks to two months.

The second questionnaire is to be used as the basis for interviews with several key personnel in government departments and agencies, referring to the use of French, hiring practices and related subjects, in particular departments.

We have given the Civil Service Commission all the results of the preliminary work which we had done here in this summer and fall, and they will be taking off from that in their

interviews with individual departments.

Agreement was reached certainly that we would get all the results of whatever came out of the Civil Service Commission study, and it would be a decision within the government as to how much went on to the B and B Commission after.

I think that pretty well covers it. We had quite a discussion with Dr. Faleh, who is a fairly recent immigrant from Egypt, on just what our concern is and what the whole development of Canada has been, and why we are asking these questions. I hope we put him in the picture.

THE CHAIRMAN: I am sure he has a detached objective view of things.

MR. GATHERCOLE: From the Pyramids.

THE CHAIRMAN: I am sure the problems will pyramid.

We thought this was possibly a more comprehensive scientific way of getting work done and it is a very useful collaboration so that I think this one is well under way.

Professor Fox, do you want to report on our meeting with the Minister of Education this week.

PROF. FOX: All right, Mr. Chairman. In Mr. Macdonald's enforced absence because of other duties, Mr. Stevenson accompanied me to see Mr. Davis this week, and we explained what the Committee was desirous that I obtain by way of

information.

Mr. Davis was very co-operative, and said that he would arrange interviews for me with his officials in the department who would be able to give me the information. So I am now awaiting appointments that will be set up by him.

THE CHAIRMAN: Were there any questions or other comments?

PROF. FOX: May I raise two points that occurred to me in listening to the report? The first concern, the point we discussed in the research sub-committee about the members of the whole Committee being made familiar with the terms of contracts entered into. I imagine this was an inadvertent omission. Do you want to report on that? It is fresh in my mind if you want me to.

THE CHAIRMAN: Would you? It is not so fresh in my mind.

PROF. FOX: I raised the issue that sometimes all members are not informed of the terms under which research is carried on, and yet they bear a certain responsibility for what is done and it seemed to me unfair for them not to know what the financial and other terms of the contract are if they are asked to take responsibility as the whole Committee.

So the research sub-committee agreed that we might arrive at this solution, if it is

acceptable to all of you, and that is that Mr. Macdonald, as Chairman, would enter into the contracts with the individuals (including members of this Committee) who undertake research projects and the amounts and details thereof might be
8 discussed with the research sub-committee; but that any of the agreements that were arrived at, the terms of those agreements would be available to any of the members of this full Committee wanting to go to the Chairman and ask what so and so was being paid, what was the job worth and so on.

In other words, it is an effort, without burdening the whole Committee with all the details, to allow everyone in the Committee to find out what the terms are so that he can feel that he is able to take responsibility.

PROF. CREIGHTON: In other words the amounts would not be formally reported to the Committee, but each member, if he wished to, could satisfy himself about any one.

THE CHAIRMAN: That is right. It is a matter of using the research policy sub-committee as a source of specific reference and advice to me, rather than burdening the whole Committee; but that no member of the whole Committee should feel that he was not at any time entitled to enquire into the arrangements, since he had some partial responsibility for what was done.

PROF. MEISEL: Mr. Chairman, are we now interested in hiring people for research assistance during the summer?

THE CHAIRMAN: That is a good point. I suppose it is that time of the year.

PROF. MEISEL: I am afraid if you do not act quickly, some of our students are already being swallowed up.

THE CHAIRMAN: We have almost an embarrassment of riches by way of summer applications, have we not, this year?

MR. STEVENSON: There are certainly four or five whom we have not committed yet for summer work, who have asked for it and whom I would think would be ideal.

THE CHAIRMAN: First class people.

MR. STEVENSON: First class people for work for the Advisory Committee.

PROF. McWHINNEY: What was your feeling on last year's performance? At one time you had reservations.

THE CHAIRMAN: I suppose the kindest thing one could say was it was uneven.

PROF. FOX: You are getting more diplomatic every meeting.

PROF. McWHINNEY: I think we had considerable reservations about the work of our students.

THE CHAIRMAN: I think we had better take

[illegible]

[illegible] in assistance

[illegible]

[illegible] I suppose

it is that [illegible] peace.

[illegible] I am afraid if you [illegible]

[illegible] students are already

[illegible]

[illegible] a [illegible] amount

of [illegible] by way of summer appr[illegible]tions. [illegible]

not [illegible] year.

[illegible] GIBSON: [illegible] certainly [illegible] or

[illegible] not [illegible] for [illegible]

[illegible] [illegible] and [illegible] would think

[illegible]

THE CHA[illegible]: [illegible]

MR. STEVENSON: [illegible] for work

for the Advisory [illegible].

[illegible] MCFARLANE: [illegible] feeling on

[illegible] at the time you [illegible]

[illegible]

THE CHAIRMAN: [illegible] the kindest things

[illegible]

PROF. [illegible]: You are [illegible] diplomatic

every meeting.

[illegible]: [illegible] considerable

[illegible] students.

[illegible]: I think [illegible] better [illegible]

note of this, Don, that by the end of this month we hope to conclude arrangements for summer students in the Department, and we had better review what our requirements will be for the Advisory Committee, and settle this in the research policy sub-committee, I think, before the next meeting.

Meanwhile if members of the Committee have students whom they would feel to be of particular merit, perhaps you would let us know and we can consider them when we are reviewing our other candidates, which we are doing next week.

Paul, you had another point.

PROF. FOX: Just a small administrative matter that some of the members may be confused about, and I do not think the report made it clear. In your letter you asked members to keep Saturday morning clear of March 19th. I wondered if you would like to explain that.

THE CHAIRMAN: We had better come to this. The arrangements for the next two meetings hinged on the possible timing of Professor Brady's paper. Our feeling was that when Professor Brady's paper would be available in advance to the Committee, we should take a whole day on it and then perhaps dinner and, rather than making a long day of it, perhaps remain over for the Saturday morning and have further discussion then.

Now, if that were ready in time for the March meeting, we could do that. On the other hand, if Professor Brady felt that he needed more time, we might defer that to April and carry on with normal business in the March meeting, and to try to get some of the members of the Cabinet to dinner on Friday evening, March 18th. These were the two alternatives, and I think it really hinged upon your position, Professor Brady.

PROF. BRADY: I do not think I can have my report really finished in time for March. It would need to be finished by the end of this month in order to mimeograph it and send it out, and I do not see much chance of my being able to do that really, to do a satisfactory job. I think it had better be postponed.

THE CHAIRMAN: To April?

PROF. BRADY: Yes.

MR. GATHERCOLE: Why could not the department here, Mr. Chairman, do the typing and mimeographing of it? With your forces here, you could turn it out very quickly.

THE CHAIRMAN: We could certainly do that part, couldn't we, Don?

MR. STEVENSON: Yes.

THE CHAIRMAN: But we wanted Professor Brady to feel that he was not being rushed improperly and could do the job. Quite apart from the

[illegible]

Mrs. [illegible] that were ready in time for the [illegible] meetings, we [illegible] to that. On the other [illegible], the [illegible] [illegible] [illegible] be needed [illegible] time. [illegible] to the [illegible] April and [illegible] [illegible] [illegible] be done in the [illegible] meetings and [illegible] [illegible] members of the [illegible] [illegible] [illegible] [illegible] [illegible]. These [illegible] the [illegible] and I think it really [illegible] [illegible] [illegible], Professor Grady.

PROF. GRADY: I do not think I can have my [illegible] [illegible] [illegible] time [illegible]. It would need to be [illegible] [illegible] the end of this month in order to [illegible] it and send it out, and I do not see the chance of my being able to do that really. I do a satisfactory job. I think it had [illegible] be postponed.

MR. [illegible]: In April?

PROF. GRADY: Yes.

MR. [illegible]: Why can't the department [illegible]. [illegible] and discuss [illegible] of it? [illegible] with you [illegible] more. You could turn it out very quickly.

THE CHAIRMAN: We could certainly do that [illegible], [illegible] [illegible].

MR. [illegible]: Yes.

THE CHAIRMAN: But we [illegible] [illegible] be [illegible] that we can not be [illegible] [illegible] and would do the [illegible]. [illegible] away from the

technical production, you would prefer April, I judge?

PROF. BRADY: Yes, I would.

THE CHAIRMAN: In that case March would be a regular meeting, and would it be the wish of the Committee that I ask the Prime Minister to put together the group of the Cabinet that he wishes to have for this purpose and attempt to have a dinner meeting? Is that form of dinner meeting and an evening, in your view, the most suitable way of dealing with this, bearing in mind the other duties they have and the difficulties of getting them in the day, let alone the evening?

PROF. BRADY: If we do that, Mr. Chairman, we would need to give some thought to what we are going to do, so to speak.

PROF. CREIGHTON: What would the agenda be?

PROF. BRADY: Yes, precisely, the agenda would be important.

THE CHAIRMAN: I would judge from my conversations with the Prime Minister that we are a little more sensitive on the point of being specifically prepared than he seems to feel from their side. He enjoyed the discussion we had, and I think part of the purpose is to expose other members of the Cabinet to the highlights of this Committee.

PROF. FOX: Mr. Chairman, speaking for myself,

I cannot really believe that the Prime Minister and the Cabinet Ministers would get that much from talking to us in an unorganized fashion. Now, if they feel they do, then wonderful, let us get ahead with the meeting; but I feel, as Professor Brady and Professor Creighton do, that perhaps we should be better prepared and have something specific to say, or have some brief reports read, as we did in the previous meeting.

THE CHAIRMAN: I agree you should so something.

PROF. CREIGHTON: These were Committee reports but what we should have this time is reports, I think, about which the full Committee as a whole either agrees or disagrees, on both sides.

THE CHAIRMAN: On issues.

PROF. McWHINNEY: Could you offer it at both levels? Certainly the Premier took a very full part, I thought, in the discussion of the committee reports. If we have reached agreement as a whole as a plenary session, well and good, but if not I suspect they would be rather lively even so, simply reports that have been put through the committees.

PROF. MEISEL: Another possibility would be perhaps for us to discuss very generally what we mean by "associate status", whatever term we want to adopt. It seems to me that the Prime Minister

was himself concerned about this at one time, what the meaning of this might be, and I think it would be interesting to discuss this in a very informal way. Now, it may be too wild a discussion to be fruitful, I don't know.

THE CHAIRMAN: There is the associate state question; there is the question we have discussed this morning of the consequences of different fiscal arrangements; there is the broad constitutional area. We take it that the Ministers who would be most likely to be attending are the Attorney General, Minister of Education, and the Treasurer. These are certainly issues of concern to all of them.

DEAN LEDERMAN: Mr. Chairman, I think we are dealing with something today on which I think it would be very useful to be able to speak directly to a group of Ministers about, namely this question of delay.

THE CHAIRMAN: Explain our thinking.

DEAN LEDERMAN: Explain our thinking on that, and they might well have a lot of countervailing comments to make. I can see an hour going profitably on that.

PROF. McIVOR: Along these lines, Mr.Chairman, it was observed that in the light of the Prime Minister's own priorities, he seemed to enter most enthusiastically into the discussion of the material

submitted by the economic sub-committee at our last dinner meeting.

Would it be a possibility that if this meeting were delayed for one further month, that the economic sub-committee might have got into being the basis of a report which this whole Committee could discuss before that time, and we could incorporate a discussion of some of the fiscal problems then and make this one of the major items of business with the Prime Minister and his Cabinet, and raise in that context matters I believe we have been discussing this morning - the desirability for delay and so on?

The reason I suggest delaying for one month is that I do not think it would be feasible for us to report in a shape which could be discussed by the Committee before that time, but this might be an area in which the Prime Minister and his Cabinet colleagues would be immediately interested.

DEAN DILLON: I think there is a danger of accepting these delays. I think perhaps it would be of great value to meet as soon as we can with members of the Cabinet, especially if it is agreed that the Prime Minister suggested he wants this broader basis to work on. I think from our observations, one of the values of the two meetings we have had with the Prime Minister is that they have been very informal and wide ranging.

PROF. McIVOR: The only reason I am suggesting delay, Mr. Chairman, is we are wondering how we can most usefully occupy our time when we meet with the Prime Minister. He has indicated his clear order of priorities, at the moment being concerned with these economic and fiscal questions, and this was the basis of my suggestion.

PROF. BRADY: Could we not have a discussion with him anyway? We might have a brief report or reports that broadly touch upon the tendencies of the Federal development at the present time, economic and so on, and start a discussion with the Ministers in order to discover what their thinking was.

For example, I would be very interested in hearing what these Ministers thought about some of thematters that are going into my general survey of the Federation. I think it might be possible to have a discussion of some points, selecting them.

PROF. CREIGHTON: If Professor Brady is not going to present his paper at the next meeting of the Advisory Committee, could the economic and fiscal committee come to some conclusions and could we have some of the material upon which it has been working before the next meeting takes place?

THE CHAIRMAN: It is now a month since we had our meeting with the Prime Minister, and he said he would like to get some of his colleagues

to meet with the Committee, and that is as much as he is going to say. Obviously my job then is to bring it about, so I feel some responsibility to get on with it.

I think perhaps we had better have then a special meeting of the economic and fiscal committee between now and then, to perhaps accelerate our work, Craig. The trouble is that there is a lot of the work floating around among our own staff, and it is really just a matter of getting down and putting it into shape.

DEAN LEDERMAN: If it were some kind of interim report, it would not have to be in final form, the form in which it is being discussed.

PROF. CREIGHTON: We would have almost nothing at all.

THE CHAIRMAN: I think to set ourselves an objective that we have to muster for, would be a very important thing.

DEAN DILLON: Do you think if you had another meeting, if you yourself met with the Prime Minister and discussed the feeling of the Committee, without this sort of investigation about what we should do, that you might get some direction which would allow you to prepare an agenda?

THE CHAIRMAN: I am sure we could do that, I am sure we could prepare ourselves if we bent our efforts to it, for March 18th.

DEAN LEDERMAN: I am not sure that he would be able to add much to what he said a month ago, would he, in giving us direction?

DEAN DILLON: I was thinking that he might indicate he would be interested in having his colleagues discuss certain aspects.

THE CHAIRMAN: Hear a discussion on these issues.

DEAN DILLON: Or he might just say: "Let us get together and have a general discussion".

THE CHAIRMAN: I think we can do that, and I think the research policy sub-committee should also meet and turn its thoughts to the agenda for that evening.

PROF. FOX: Could I suggest two things, Mr. Chairman. The Premier expressed interest in the problem of constitutional amendment and the Fulton-Favreau formula and what is to follow. It seems to me the constitutional sub-committee is well able to deliver some thoughts on this subject that could be of great interest surely to the Attorney General and the Premier.

THE CHAIRMAN: Absolutely.

PROF. FOX: Then, secondly, Mr. Davis expressed interest in coming to meet with the full Committee voluntarily, when I was talking to him the other day. If these meetings with these officials were also sufficiently prior to that

meeting to permit me to prepare a factual report, we might be able to get into that area too, and we might well have lots of material that could be discussed. We would really have the three committees making some sort of presentation.

DEAN LEDERMAN: I think it would be necessary, if the constitutional sub-committee is to deal with the Fulton-Favreau formula, that we have a special meeting of that committee between now and March.

PROF. McWHINNEY: I had the impression in the Premier's remarks that he no longer felt this was of such high priority really. Do you remember we were battling it back and forth?

DEAN LEDERMAN: I do not think he retreated on his original statement.

PROF. McWHINNEY: That he supports this?

DEAN LEDERMAN: As I recall it, he regretted that it seemed to be fading out, because he did not quite see what was going to take its place. My impression is that he certainly mentioned that this was a matter of some priority to him, that at one time or another he was going to have to face it.

MR. STEVENSON: As I took it down in summary notes, his remarks were to the effect that he was sorry that it looked as if the formula was not going through; that it would be very useful for the Committee to discuss the reasons for its not going through, and then to discuss what possibility

there might be of an alternative.

DEAN LEDERMAN: I think this would call for a special meeting of our constitutional sub-committee.

DR. FORSEY: With great respect, I am not at all surprised that he felt that. It seems to me that it might be very important to have some kind of discussion and report of the constitutional sub-committee as to why the thing collapsed and what conceivably might be done. I would thoroughly agree with Dean Lederman that we have to have a special meeting of the constitutional sub-committee.

Incidentally it strikes me (I may have missed something here because of this cold of mine) it strikes me it is quite possible that even if the Premier and members of the Cabinet did not see fit to meet with us on March 19th, we might quite well stay on for the evening to do some ordinary work; because the amount of stuff we still have to get to today looks to me pretty formidable, and I suspect we might find the same thing will happen next time, so it might not be a bad idea for us to consider the possibility of having an evening on our own work, even if they did not want to come.

THE CHAIRMAN: Monday I will be in touch with the Ministers to clear their timetable. There are contingencies there. Who knows, they may be somewhere else. Would you leave that with

us then, on the assumption that something will happen on March 18th, either with the Ministers or of course we could well, if you are so inclined, have dinner and some further discussion. We have lots to do.

PROF. MEISEL: Mr. Chairman, can I raise a matter of procedure here. It seems to me that the Premier suggested not just one meeting of this Committee with the Cabinet, but I have the impression he had in mind a sort of continuous process of exchanging ideas.

THE CHAIRMAN: He did, I think.

PROF. MEISEL: In that case, perhaps what we should plan for is a number of meetings, each one devoted to one of the major areas.

THE CHAIRMAN: Well, I think I had better meet with him at the first of the week and have a little further discussion on that point and then have an early meeting with our sub-committee on arrangements to take this forward.

MR. GATHERCOLE: Mr. Chairman, may I just make this observation, that inasmuch as I think the Legislature does meet on Friday morning and the Ministers are available in the afternoon, it may be that they would be glad to meet with the Committee in the afternoon.

THE CHAIRMAN: Yes, I was thinking of that.

MR. GATHERCOLE: And have dinner and carry

on with our discussion after.

10 THE CHAIRMAN: Good idea.

MR. GATHERCOLE: The second point I would like to make, I think it is valuable to achieve an early exposure of the Ministers to the thinking - even though it might be diverse and conflicting- I think there is still merit in having an early exposure of the Ministers to the views that are expressed by this Advisory Committee as far as the topics are concerned. There is no end of them and I believe the sooner we get down more to specifics such as in the Supreme Court and so on, as has been done here in the memorandum and recommendation that has been made here on biculturalism and language, I think the better it is.

As you yourself said, if you suggest a date, then you are apt to meet that date, whereas if you put it off for another month, another month has gone by and the first thing you know you are confronted with the necessity, or they are, with making some decisions when they have not had the fullest opportunity of ascertaining what the views and the advice of this Committee would be.

THE CHAIRMAN: I think the Prime Minister had the quite clear intention that the advantage of some of his colleagues meeting with us would be to give us a little more direction on the specific matters that we needed to hear about. That is a

good suggestion, George, about the Friday afternoon.

PROF. FOX: May I just say one word on this Fulton-Favreau formula. Quoting from the notes on Mr. Robarts' conference with the Committee in January, it says on page 3 that he would like to see some work done on an alternative, and this might include analysis of the Fulton-Favreau formula and the reasons for it not being accepted. It seems to me this is a clear direction to the constitutional sub-committee, in particular, to go on with the thinking.

DEAN LEDERMAN: That is my impression.

THE CHAIRMAN: I think it is quite explicit.

PROF. McIVOR: Before leaving this whole area, what do we propose to do about the date of our April meeting?

THE CHAIRMAN: I was going to raise that because it is the Easter week.

PROF. FOX: It is the end of it.

THE CHAIRMAN: Well, if it is to be Professor Brady's paper that is one thing, but if we were to have other meetings at any point in that day with members of the Cabinet, the House is usually adjourned in the Easter week and they are likely to be hither and yon, and I don't know what your own plans might be at that point of the year.

What are your views as to the statutory

date, so to speak, which would be the 15th, on the third Friday principle?

DEAN LEDERMAN: That is the week after Good Friday.

THE CHAIRMAN: What did you have in mind, Craig?

PROF. McIVOR: My reason for raising the question was the purely personal interest that if we were in the advance stage of discussion, if we were discussing something that the economic sub-committee might have produced by that time, I should be unable to attend on April the 15th.

MR. PERRY: So would I.

MR. SEGUIN: I am also unable on April 15th.

THE CHAIRMAN: Tom, you have a problem also. Is it about the fourth Friday in the month?

PROF. SYMONS: The fourth Friday is a bad day.

THE CHAIRMAN: That is your Board meeting, is it?

PROF. SYMONS: It is our Board meeting, yes.

PROF. McWHINNEY: I think it is very difficult with these things. I make arrangements six, sometimes twelve months ahead, and I think it might even be better to postpone the meeting.

THE CHAIRMAN: We ran into this problem, I recall, last year in our very first meeting of March when we were considering setting our April

meeting; we had the same difficulties about the date in April.

PROF. BRADY: Is Good Friday on the 15th?

THE CHAIRMAN: The 8th.

DEAN LEDERMAN: Good Friday is the 8th.

THE CHAIRMAN: Now, we have noticed that three people cannot attend on the 15th. The 22nd, I take it, would knock you out, Tom.

DEAN LEDERMAN: What about Friday, 1st April? Are you in trouble there, April Fool's day?

THE CHAIRMAN: What about the 29th?

PROF. McWHINNEY: I have already made arrangements on the assumption of the third Friday. I think this is the difficulty in making ad hoc arrangements.

DEAN LEDERMAN: What about the 22nd, that is, two weeks from Good Friday?

PROF. McWHINNEY: Tom is tied up. He has made his arrangements on the assumption of the third Friday.

PROF. BRADY: Could you take another day? It doesn't much matter whether you take a Friday or another day, if you depart, in other words, from what has been the plan. It is just a question of getting a date that is suitable for everybody, if that is possible.

PROF. CREIGHTON: That is the reason we chose Friday. There would be the difficulty of

getting an alternative.

PROF. McWHINNEY: That is the reason for an arbitrary rule: at least the ground rules are clear.

THE CHAIRMAN: This is an important day because it is Professor Brady's paper, and it is also contemplated that we might go over into the following morning,

DEAN DILLON: I would be in favour of sticking to the day. It is marked on my calendar, I know.

DR. FORSEY: If Professor Brady's paper is in our hands long enough ahead (and I gather it will be) any of us who could not turn up on that day could set forth in writing our main comments. I know this would be less satisfactory, but it may turn out that almost any other day is a worse one for more people.

PROF. FOX: Is there some feeling that the Ministers might not be able to attend on the 19th? Is that how we got off on to this difficulty -- or the 15th?

THE CHAIRMAN: I do not think for that particular meeting, if it is to be the Brady meeting, that we are concerned about Ministers. I think there was a decision taken some time ago that we should not mix these things, but if we had Professor Brady's day it should be confined to that.

Well, there are three people who cannot come on the 15th, but I detect a certain prevailing sentiment to stick to the statutory date.

DEAN LEDERMAN: Could the people who are unable to come on the 15th, join us on the 16th if we run into the Saturday, as we plan on doing?

THE CHAIRMAN: Harvey?

MR. PERRY: I could, but I will not be in the mood. I am taking a two week holiday for the first time in years and this would be the first day after I come back from holiday.

PROF. McIVOR: I would be unable to do that.

PROF. BRADY: Could you hold the meeting on the following week other than the 22nd, which is not feasible for at least one member? Would that be any better from the point of view of Mr. Perry?

DEAN LEDERMAN: Is a Monday meeting a reasonable thing instead of Friday, the beginning of the week instead of the end? For those who travel from a distance, it means you can start on your way Sunday night.

THE CHAIRMAN: I really do not know how to resolve this, apart from adhering to the regular form, sticking to the 15th.

DEAN LEDERMAN: We are talking about April?

THE CHAIRMAN: Yes.

DEAN LEDERMAN: Of course, we are set for March. We can take this up again in a month and

see whether people know more about their business.

THE CHAIRMAN: I think we had better plan at this time to stick to the statutory date.

DEAN LEDERMAN: Take another look at the problem in March.

PROF. FOX: And we are scrapping the idea of meeting on Saturday morning, March 19th, as indicated in your letter -- March, not April?

THE CHAIRMAN: Yes, I presume that is intended, if we are meeting with the Ministers.

DEAN LEDERMAN: This meeting with the Ministers may be Friday evening, March 18th, which means in my case I stay till Saturday morning in any case, so it doesn't matter.

THE CHAIRMAN: Certainly if we do not manage to get the Ministers on the 18th, then we can remain into the evening and over dinner to carry on our business. If we do get the Ministers on the 18th for dinner, would there be any wish to stay over into the Saturday morning of the 19th for our own business?

DEAN LEDERMAN: I would say the research policy sub-committee would have to propose that if they find that is the situation; if they find it is desirable, they can perhaps say.

THE CHAIRMAN: May I ask that members continue to keep the morning of the 19th open, and we will try to give you as early notice as

possible.

It is quarter to twelve. The third item on the agenda was our old chestnut - a resolution on the Supreme Court. Is it your wish to come to grips with this issue at last, or to go immediately to sub-committees in view of the work that awaits? Dean Lederman, how do you feel about this precious
11 thing that you have done?

DEAN LEDERMAN: Mr. Chairman, I would make this comment and I should make it in fairness to my colleagues on the constitutional sub-committee. We had agreed last month on these four propositions on page 1. The explanatory memorandum on the following page and a half is entirely my own composition and while it was the thing I was asked to do, my colleagues on the constitutional sub-committee have not had a chance to comment on it. They saw it when the material was distributed earlier this week but they have not yet had a chance to comment on it.

This way of putting it represents something of an exercise in the form of communication that this Committee might want to attempt on the various issues. It is an experimental form to express the gist of the position very briefly, and then the explanation of it in a still concise but lengthier statement.

Now, of course, like all these issues, you

could write a book about the thing, and there is always something you could add, but this is an effort to grapple with the problem of how this committee records agreement - if indeed it does agree - and in concise, communicable form. So I think this is by way of being an experiment in communication, regardless of the topic that it does deal with.

Whether we ought to try to make a plenary Committee position on it right now, or whether my colleagues on the constitutional sub-committee want to discuss the explanatory memorandum before it is dealt with in full Committee, is something on which perhaps they will speak.

THE CHAIRMAN: Are there any views on this from other members of the Committee?

PROF. FOX: You are suggesting it might be better to go/our committees relatively soon and consider your statement, and come back this afternoon and discuss it in the plenary, is that it?

THE CHAIRMAN: With one problem for you there, Bill.

DEAN LEDERMAN: I have to leave at four o'clock because I am in the midst of a staff function they have in mind in Kingston tonight and I have to get back.

PROF. CREIGHTON: It may be irrelevant, Mr. Chairman, but in the second sentence of a

letter which you wrote to us on 10th February you said:

"We have decided to meet briefly in "plenary session at the beginning of the "meeting in the 7th floor board room".

Obviously we have not met briefly at all; we have had quite a long meeting, and I suggest that we go immediately into sub-committees and that we do not plan to meet again at four o'clock as the full Advisory Committee, because we have lots of things to do and I think we have been talking at large in this meeting, and we had better get specific if we possibly can for the rest of the day.

PROF. McWHINNEY: You mean you propose we discuss at once?

PROF. CREIGHTON: I propose we discuss this or anything else -- we carry on work in the sub-committee as far as we can.

THE CHAIRMAN: My experience as a member of this Committee has had two effects on my life; there are two words no longer in my vocabulary as of this moment - one is "hopefully" and the other is "briefly".

DEAN LEDERMAN: This subject, Mr. Chairman, is, I think, of great importance, but it is not urgent as to the timing of it, and I would agree with Professor Creighton.

THE CHAIRMAN: You wish to adjourn to

sub-committees? If so, let us do that and meet inthe following places: Constitutional, here; Cultural in Mr. Stevenson's office; Economic and Fiscal in the 10th floor Board room.

Lunch will be made available here at whatever time it suits, and since we would only have a short time, could we make lunch at 1.15 or something of that kind?

Do we need to resume in plenary at all this afternoon in that case?

PROF. McIVOR: Mr. Chairman, the economic sub-committee was instructed to get this resolution drafted for approval.

THE CHAIRMAN: That is right. We had better resume at four o'clock in plenary.

--- At 11.55 a.m. the Committee resolved into sub-committees and resumed in full Committee at 4.10 p.m.

THE CHAIRMAN: There are a number have departed and others are anxious to depart, I know. We have the resolution prepared by the economic and fiscal committee, which is being reproduced at the moment and should be up within a few minutes. It is about a page in length.

We might, meanwhile, go on with some of the work of the other committees. Is there a report from the cultural committee or any items to carry forward, please, Professor Brady?

PROF. BRADY: Well, I do not think there is anything fresh to report. I might just say that our statement submitted at the last meeting on bilingualism is a statement that is not representing a report of our work. It was made clear, I think, last day that we were working on this, and we will have a memorandum, a full report, in due course, supporting as it were, the position which we stated and to which we remain attached.

We are very grateful for any suggestions, criticisms, comments. If there are any such, for example, in addition to those that Eugene Forsey made in his paper, that members in the other subcommittees would like to make this afternoon, we would be very glad to have them.

We do not see any point in us arguing, as it were, the point, or discussing details which will be duly put into our report when we make it. Our work in other words, is not completed.

THE CHAIRMAN: Are there any other comments or questions you want to put to the cultural subcommittee? It was suggested to devote part of today to that task, but the economic and fiscal committee had its hands full in other directions.

What about the constitutional committee?

PROF. CREIGHTON: The chairman of the constitutional committee has been obliged to leave the Advisory Committee, and he asked me to give a

brief report on the deliberations this afternnon or this morning, so I will do so.

In the first place, we present the resolution or the statement of the position of the constitutional sub-committee concerning the Supreme Court of Canada, with one amendment to the memorandum of explanation on the fourth line from the bottom of the first page. The sentence in which the amendment occurs reads at present as follows:

> "The nine judges are appointed by the
> "Governor General-in-Council, that is,
> "by the Federal Cabinet".

In actual fact it is by the Governor General; it is not the Governor General-in-Council. We propose to amend the sentence in this fashion:

> "The nine judges are appointed by the
> "Governor General on the advice of the
> "Federal Cabinet."

That is the only amendment that we propose.

We thought that the Committee as a whole might like to discuss and debate this resolution or it might like to pass on it immediately. WE do not know. The only thing that might be observed before that begins is that our Chairman, who was mainly responsible for drafting both the position and the supporting explanation, cannot be here this afternoon and perhaps it might be

courteous if we waited until he is present, to add anything you might care to add to the discussion, that is, unless it is apt to be unanimous, as it may very well not be - but I think if there is any very great reluctance to accept the formula proposals as they are set out in these pages, perhaps we ought to wait until our Chairman returns.

Shall I go ahead?

THE CHAIRMAN: If you please.

PROF. CREIGHTON: All right, I will go on to the second one which is on the cultural committee's report and the explanation which Professor Brady has given, I think, to some extent makes it unnecessary for me to repeat our observations here.

I understand from him that we are not called upon now to make a decision in principle about the proposals which were put forward by the constitutional committee; but in effect this is simply a kind of advertisement of the plans which the cultural committee proposes to follow, and that in due course specific recommendations or resolutions will be presented to the Advisory Committee as a whole.

If this is the case, I think that we would simply like to say that we regard the scheme as at present stated in the statement of the cultural committee, as a comprehensive package deal, whose

implications and meaning are not very clear, and we would like to have them made more specific and precise.

Therefore we support Dr. Forsey's critique of the recommendations, and hope that they will
12 be presented seriatum with explanations and documentary support.

The other main thing which we discussed at our meeting was the question of the Fulton-Favreau formula. If the members of the Advisory Committee recall, the Prime Minister suggested that wemight explore the reasons for the failure of the formula and perhaps make suggestions for its substitution.

We discussed the political circumstances which surround its abandonment or temporary postponement. We do not think there is much secret about these circumstances and beyond that we do not think that anybody from the Province of Quebec, which has so far alone ceased to validate them, has given any specific reason for its failure in Quebec. Therefore, we do not think we can carry that possibility much further.

However, the chairman of our sub-committee has engaged himself to prepare a paper setting out the questions which he thinks must be answered in any attempt to prepare an alternative formula or, if you will, the problems which must be circumvented if any successful formula in

substitution is to be found; in the second place, if it proves impossible ultimately to find a substitute formula or to find the present one acceptable, to discuss the steps which would be necessary to take to move towards a completely new constitution.

I think that represents approximately what we did.

We recommended finally -- Mr. Farrell or Mr. Stevenson has informed me that Eugene Forsey's paper on the Monarchy in the provinces has already been circulated. Our committee was not sure whether it had been circulated or not to the Committee as a whole, and we therefore recommended that it should be circulated. I am informed now that it has been. That is the report.

DR. FORSEY: I had it made out. I did not get a copy. I had nothing but a very rough ---

MR. STEVENSON: Have the rest of you got papers on the Monarchy? I had thought we distributed it a couple of meetings ago.

THE CHAIRMAN: We distributed it a couple of meetings ago.

DR. FORSEY: It may have been distributed at the last meeting when I wasn't here.

THE CHAIRMAN: No, it was not last month; it was at least in December.

PROF. FOX: No, I think I got mine at the

last meeting.

DR. FORSEY: I have got my rough.

THE CHAIRMAN: You were supposed to have been sent half a dozen copies this week of it, and also of your Trent lecture.

DR. FORSEY: They have not arrived. They will probably arrive today.

THE CHAIRMAN: Now, the Supreme Court.

DR. FORSEY: Excuse me. Dr. Creighton, did we not say something about the associate state or something of that sort, or did we have something to present on that?

PROF. CREIGHTON: We have commissioned at least one paper on that, two I think, but I don't think we have anything particularly.

DR. FORSEY: Nothing further.

PROF. CREIGHTON: At this present moment here, no.

THE CHAIRMAN: The Supreme Court. In anticipation of Dean Lederman's departure, I discussed with him the handling of this this afternoon. I detected that there might be still some questions or dissent about it. I agree with Prof. Creighton that if there is to be a prolonged discussion or difference of opinion we cannot perhaps resolve it without Dean Lederman being present.

I think if this issue, which we have dealt

with on previous occasions, is now in a form that is satisfactory to everyone, it could go forward.

I think we should put it on the table now for discussion, and I will try to use my judgment if I detect that there is still a lot of talking to be done or any strong measure of dissent. If people are happy with it, I have already cleared with Dean Lederman that he, of course, would be content to let it go forward.

PROF. CREIGHTON: Our committee endorsed it, as I say, with this simple single amendment.

MR. SEGUIN: I dissent, Mr. Chairman, on point 4. I do not see any reason why Quebec should be granted freedom to have its own Court of Appeal, because it will be a bad example for the others, knowing lawyers, that they will all ask for their own Court of Appeal. That is the same feeling in Quebec, I feel, with Quebec lawyers.

It has not been suggested by them that they have their own Court of Appeal. It has been suggested by a few lawyers that they should have their own Court of Appeal. I think they should argue in the Supreme Court, and I do not think this Committee, or at least this government or this province, should ever suggest that Quebec withdraw from the Supreme Court of Canada.

As an alternative, if they want to have five judges, okay, I would give them that, but I would not let them withdraw from it.

PROF. McWHINNEY: I do not think it was the Committee's view that this involved a withdrawal from the jurisdiction of the Supreme Court. This is a subject which has been discussed in scientific legal literature long before biculturalism was a constitutional term of art. I remember debating it myself in 1958 and writing some learned comments on it. Leon Lalonde made a proposal in 1956 on this very issue.

It has to do really with the problems of obtaining a quorum on the Supreme Court composed of a civil law majority. The quorum of the Court is five under normal circumstances, and there are only three civil law judges. If one of these is incapacitated, difficulties arise in finding an actual civil law majority. There have been cases where civil law cases have been decided by a common law majority with a three-to-two decision, two civil law judges dissenting.

It is for technical reasons of this sort, I feel, that Quebec lawyers have put a proposal forward along these lines. It precedes the presentbicultural debate.

It seems to me to be reasonable and the proposal which would do the least damage to the

existing fabric of the constitutional courts. As I say, I felt myself, even before biculturalism it was a reasonable proposal.

I do not think there is any risk of other provinces demanding that common law appeals, as in Ontario or British Columbia, be decided by provincial courts of those provinces. If this arises, I think they could be considered on their merits.

I think the alternative you suggest, Mr.Seguin, of increasing the number of judges would do some violence to the existing constitutional fabric, because it would change in effect the balance of power on the Court. It is for this reason that the committee as a whole, I think, consciously vetoed in such proposal.

MR. SEGUIN: But you can increase the overall bench; you do not increase just one side but you increase the overall bench. Today anyway, the list is getting longer and longer every year.

PROF. McWHINNEY: You would still have your quorum problem, unless you proposed that a number of less than half of the Court should constitute a quorum for any matters. You still face this problem of the relative ratio between civil law judges and the rest of the Court.

The original proposal by the way on Lalonde, which is supported by the then Dean of the

University of Montreal, Faculty of Law, long preceded bicultural debate and was directed really to this question of quorum of civil law influence.

MR. SEGUIN: I admit that. As I said professors, but the actual lawyers that prepare and come to the Supreme Court, I know what their feelings are. I represent 85 per cent. I see them all and I meet them all, and they are of the opinion that they should remain in Ottawa because they say: "That is where we can at least hope to get fair treatment".

PROF. CREIGHTON: Mr. Chairman, I do feel Professor Lederman and the committee as a whole will be quite ready to drop paragraph 4 of the statement.

DR. FORSEY: After all, it only says, "no objection".

PROF. CREIGHTON: Am I not right in that, Dr. Forsey?

DR. FORSEY: I do not think it is a vital matter at all, and in view of what Mr. Seguin says ---

PROF. CREIGHTON: Isn't that the general opinion, as you know it, of the committee?

MR. MAGONE: There would be no objection,
13 and the reason for that is really fundamental . The position of the common law provinces is that there is a final court of appeal determining what

the law is to be in a common law position. Then you have a binding authority.

Now, in relation to matters under the Civil Code of Quebec the same situation does not arise. In other words, there is a five-judge Court of Appeal in the province of Quebec, and the suggestion has been made that the decisions of that court in Quebec are upset by three civil law judges. So that, as has been said, we just came to the conclusion there could be no objection to the opting-out.

PROF. CREIGHTON: But we do not advocate it, we do not pass it; we can remove it.

MR. MAGONE: That is right.

THE CHAIRMAN: Do I read the sense of the meeting correctly, that if this section were deleted and without suggesting any lack of accuracy in the report, as a matter of courtesy I would call Dean Lederman, I think.

PROF. CREIGHTON: Yes.

THE CHAIRMAN: And confirm that with him, and submit it thereafter, unless there are other points?

PROF. McWHINNEY: It might need re-drafting a little bit in the sense of some of the language in 1, 2 and 3, although I think the thrust of them is predicated upon having clear-cut terms.

DR. FORSEY: It might need some single

amendment, and it would mean a change in the memorandum part because one part of it ceases to be applicable.

PROF. MEISEL: Mr. Chairman, I feel like an elephant skating on very thin ice when asking about this kind of problem, but I would like to ask a question. On page 2 of the supporting memorandum it is suggested that these misgivings are unfounded misgivings, which are listed on the bottom of page 1 and the top of page 2.

I daresay this is correct, but what I wondered about was how extensive these misgivings are. If a substantial body of opinion in one part of the country has these misgivings, then one has to take them seriously, whether they are founded or not.

In other words, if a substantial opinion in Quebec, for instance, were to distrust the Supreme Court and to think that the Supreme Court was a biased body, then it has to be taken seriously, no matter how erroneous this distrust may be.

Are the members of the Committee satisfied that the reaction of distrust in Quebec is so slight as not to be taken seriously?

The reason I put it this way is that if there is a genuine lack of confidence in the Court among a sufficiently important group of people, to be taken seriously, then there may be some point

in exploring the idea that Mr. Seguin mentioned, of adding not to the proportion of civilians on the Court but to the number, so that cases arising in Quebec could be tried by civilian members of the Supreme Court.

PROF. McWHINNEY: You could not change the numbers without changing the proportions as the Supreme Court Act now stands. It would require an amendment of the Supreme Court Act and really the spirit of the Supreme Court Act to increase the numbers without at the same time maintaining the proportion.

PROF. CREIGHTON: This is what he assumed the proportion would be maintained at.

PROF. McWHINNEY: It could be three out of nine at present.

PROF. MEISEL: Yes.

PROF. McWHINNEY: Seven out of twenty-one. There are alternative methods of achieving civilian decisions on civil matters arising under the Civil Code. We considered those but did not advert to them. I do not think they would add too much to the memorandum to put them in.

This seems the method that does least -- or requires the least structural or other change.

On the other point you made, however, it is suggested in some writings at the present time that the Supreme Court as at present constituted

is a Dominion and in fact not really a Federal body. I think this is the reason why Dean Lederman included this paragraph, to eliminate what he felt was a misguided impression that the Supreme Court was a Dominion tool, if you wish, not the genuinely federal body -- federal in the sense of representing the Dominion and the provinces.

MR. GATHERCOLE: Mr. Chairman, I should not make any observations at all about this subject, but I do recall the rather strong representations that were made by the Prime Minister of Quebec to a matter which was before the Supreme Court of Canada; and the inference which he conveyed to me was not one which is based upon the number of members in the Supreme Court, but rather on the point that Professor McWhinney has just raised, namely that the members of the Supreme Court were being appointed by a government over which they had no control or responsibility.

I do not think there was any question about the emphasis that he placed upon this matter, and so his feeling of a shortcoming in the Supreme Court of Canada would not be met by increasing numbers, but rather giving to the government of Quebec the authority and the right to appoint members to the Supreme Court.

MR. SEGUIN: I think it would be wrong to get every Premier in Canada to send his own representative.

I would rather see it as it is.

PROF. CREIGHTON: They become delegates then of rival governments.

MR. SEGUIN: Exactly.

PROF. CREIGHTON: That is fatal.

MR. SEGUIN: I mean, they should be appointed by one authority, one head, and it should be the same head for all appointments, but not the Lieutenant-Governor or the Premier of this province, not this one or that.

MR. GATHERCOLE: I was not suggesting, of course ---

MR. SEGUIN: I have heard that opinion from Premier Lesage that he wanted to control also his own judges, Superior Court judges. I think that would be wrong also.

MR. MAGONE: Mr. Chairman, in answer to Professor Meisel, I hope you will not think I am talking facetiously when I say that we find that the people that distrust judges are losers in the actions.

MR. SEGUIN: Exactly and I have never heard criticism.

MR. MAGONE: And that happens in all the provinces.

MR. SEGUIN: I have never heard criticism from a Quebec lawyer pleading before the Supreme Court of Canada saying he lost his case because it

was a civil law lawyer who judged him. They more likely say it was because it was a Quebec judge who did not like him, but not because it was a civil law lawyer, because at the present time ---

DR. FORSEY: Not because of the, you mean, common law.

MR. SEGUIN: Sorry, common law, because at the present time I think we have a very good Bench, and I think we can appoint other judges that are as good as these in the future.

PROF. CONWAY: Mr. Chairman, it seems to me I may be misreading paragraph 4, that this is really a concession to the notion of associate status is taking its own appeals to the Supreme Court judiciary of the province. I do not see how you can read it in any other way.

MR. SEGUIN: It is the beginning of other things.

PROF. CONWAY: That is one point. The second point is that although Professor McWhinney knows far more about these matters than I do, I would be very nervous of this being used as a precedent by other provinces in the very uncertain state of Canadian affairs today.

PROF. CREIGHTON: How can they use it when they are all common law provinces?

PROF. CONWAY: They might assert that their own highest court would be the highest Court of

Appeal. This is what Quebec would be doing basically.

PROF. CREIGHTON: I do not think that follows. The argument really is not valid.

PROF. McWHINNEY: It would not be necessarily fatal. In a way, paragraph 4 gives you the fact that the Supreme Court of Canada, unlike, for example, the Supreme Court ofthe United States since the Judicial Act of 1925 and unlike most European federal courts, the Supreme Court of Canada is a court of all jurisdictions; it is the non-controversial, non-public law area, by definition obviously of private law which includes the Quebec Civil Law.

Paragraph 4 is really a deference to the fact that judicial expertise increasingly cannot cover all matters, and that this provoked claims that long precede the bicultural debate, that there should be procedural reforms made to give a greater civil law concentration on Quebec Civil Code cases.

14 The difficulty with this is , as I have explained earlier, matters having to do with the quorum in the Supreme Court and the particular percentage fixed by practice and also by statutes as to representation of civil law judges on the Supreme Court.

I would agree that paragraph 4 could come out without any more than consequential amendment

in paragraphs 1, 2 and 3. Notwithstanding, I do not think any serious damage to the fabric of federalism, as has been suggested, would result from leaving it in. The fact is paragraphs 1, 2 and 3 are specifically designed to exclude constitutional and public law issues (and these are the fighting issues of the present day) from the operation of paragraph 4.

In effect it is a limited proposal directed towards issues that have been raised long preceding the present bicultural debate, that relate to the merits of court specialization.

I suppose ultimately, even with Ottawa biculturalism one might have considered the possibility of a private law Supreme Court or specialized jurisdiction within it, but it has nothing really to do with the present bicultural debate, and I do not think any very serious consequences would flow from it damaging to federalism; nor even, though I think it would be inconvenient if every province were so foolish as to have their own Supreme Court in common law, I think even that would be tolerated if it came to it, though I think it would be rather foolish.

If there is strong feeling on paragraph 4, we can very easily delete it, with simply consequential amendments, as Dr. Forsey said, in paragraphs 1, 2 and 3.

THE CHAIRMAN: How do we proceed? I have a feeling that this resolution is becoming like the venerable grandmother which will outlive us all.

Then the sense of the meeting is to delete the last clause, but if this does require some modest amendment in the first three -- how do we receive that?

MR. GATHERCOLE: I wouldbe in favour of that, Mr. Chairman.

PROF. FOX: I have been looking it over. I do not really see that any changes are needed; that if we delete 4 any changes are necessary in the first three.

PROF. CREIGHTON: Don't think there are.

PROF. FOX: Or except the first line of the memorandum, when you say "three propositions" instead of "four".

PROF. McWHINNEY: I think you might sensibly delete "constitutional" because it is superfluous in the second line of paragraph 1 - "Supreme Court as the final tribunal for all cases". "Constitutional", I think, would sensibly be deleted since it is surplusage. I do not think you would need paragraph 3 under those conditions, so you have two paragraphs, 1 and 2, with "constitutional" deleted.

DR. FORSEY: Then you could really simply say on two points of the thing, that things should

be left as is.

PROF. McWHINNEY: As is, right.

DR. FORSEY: You don't need them in there. The whole thing goes up the spout, although you might then have the explanatory memorandum with the word "four" in, but you might have to have an explanatory memorandum apart from the last paragraph saying why we think it should be left as is.

THE CHAIRMAN: It is my impression we would then be back where we were three months ago, correct?

DR. FORSEY: With great respect, no, because this matter has been considered by the constitutional committee with some care. We have arrived at this conclusion now with the further light shed upon the matter by members of the main Committee, we have arrived at the conclusion that we might as well leave well enough alone; after investigating possible alternatives, to say: "Yes, we think it is probably the best we can do".

THE CHAIRMAN: Yes. Thank you.

PROF. CREIGHTON: It might also be remarked that it is the only concrete proposal we have had before the committee yet.

PROF. MEISEL: Mr. Chairman, what do we do when Mr. Watts' report on the Supreme Court in federal states reaches us? Presumably we do not

need this report to be written.

MR. STEVENSON: Second chambers.

PROF. MEISEL: Sorry.

PROF. McWHINNEY: I think you have that report of myself on this.

PROF. CREIGHTON: A very excellent report, well worthy of perusal.

PROF. MEISEL: I withdraw.

THE CHAIRMAN: Obviously we are nearing the hour of indiscretion. We had better try and bring this to a conclusion, I think. The question is, do you wish to have Dean Lederman make these modest revisions in the text?

PROF. CREIGHTON: And pass the report in principle.

PROF. McWHINNEY: Are you then suggesting, Mr. Chairman, we should have my more modest proposal then recorded that in 1 and 2 "constitutional" be deleted, or are you suggesting Eugene's - that we simply take note of the scientific paper and the memorandum of the committee?

DR. FORSEY: It seems to me that essentially, if we have come to a conclusion, the thing should be left as is. The desirable thing is to submit that to the Premier and to give him a note of our reasons for arriving at the conclusion; so, in other words, we just do not say that such answer is all for the best and the best of all

possible Supreme Courts, and we really tussled with this and we arrived at the conclusion ultimately that it were best to leave it as is, for the reasons which are set forth here. If he wants something more ample, then for the further reasons which were made clear by Mr. McWhinney's statement.

THE CHAIRMAN: That is to say, we are left with the points 1 and 2?

DR. FORSEY: In effect, yes.

PROF. McWHINNEY: With "constitutional" deleted in the subject.

DR. FORSEY: Yes.

PROF. SYMONS: Mr. Chairman, may I raise a point? It is just that I am not sufficiently knowledgeable. Point 3, I wish Professor McWhinney would just inform me on this. There is no need to have something of this sort as an affirmation? Is it now well established and understood in all provinces that constitutional issues do embrace fundamental rights and human freedoms? Is there any validity in having an affirmation of this fact, or is it well and clearly established?

PROF. McWHINNEY: 3 is in, Tom, because of 4. One of Dicey's truths was that public law rights in injury are the result of private law damages pursued through to conclusion. One of the big Canadian constitutional cases, Ron Currelly and Duplessis, was on a simple action in tort under Article 1053 of the Quebec Civil Code, that, under paragraph 4 as it stands, if

paragraph 3 were not there, would be a matter that would be left to the provincial courts of Quebec under paragraph 4; but because of paragraph 3 being the constitutional matter raising fundamental and human freedoms even though it were a civil law matter, it would still go on appeal to the Supreme Court of Canada. If, however, you take out paragraph 4 and the final determination by Quebec provincial courts of Quebec Civil Code matters, then there is absolutely no need for paragraph 3. It was simply designed to say that there are some matters which, even though civil law, nevertheless because they concern fundamental rights will be classified as constitutional and therefore subject to appeal to the Supreme Court of Canada.

Once you strike out the special disposition of Quebec Civil Code cases by the Quebec Courts, the final disposition by Quebec Courts, you do not need the special definition of constitutional cases as including civil law.

DR. FORSEY: Covers everything now.

PROF. SYMONS: Thank you very much, Mr. Chairman.

PROF. CREIGHTON: I would like to see it included, all the same, Mr. Chairman. I want the third paragraph and the explanation. I agree that the fourth should be deleted, but I would like the explanation and the first three

paragraphs to stand.

THE CHAIRMAN: Then we have two recommendations - one for three and one for two.

PROF. McWHINNEY: I cannot see the significance of the definition of constitutional issue, Donald. There is no technical place for the term "constitutional issue" unless you make
15 the purpose of the court jurisdiction statute a distinction between constitutional issue and civil issue. Once you abolish the special category of civil issue, constitutional issue has no significance at all.

DR. FORSEY: I should have thought Professor Creighton's point would be covered by the present paragraph 2 of the memorandum of explanation. If you are going to leave everything as it is, leave it covered already, then you explain that one reason why you leave it as it is is that vital constitutional issues so and so, fundamental rights and human freedoms, that any person should be able to carry an appeal as a matter of right from lower courts to Supreme Court if need be and this should be assured.

It is all there. You do not need it as a reference. You are merely explaining why this existing situatinn should be perpetuated, as I see it. I have no objection to saying it, but it seems to me to be surplus verbiage to put that in,

as long as you have got affirmation of this as one of the reasons why we want to leave things as they are.

MR. MAGONE: I agree with you.

PROF. BRADY: In other words, you would put it in in the explanation really, in a sense.

THE CHAIRMAN: Are you satisfied there is agreement then in principle on the resolution including the first two clauses?

PROF. CREIGHTON: The explanation.

THE CHAIRMAN: The explanation and that we should ask Dean Lederman to make such minor adjustments in the supporting text as are appropriate, and that we should include the note to the effect that we have arrived at this, as Professor Forsey suggested, in a certain manner, and that the resolution then go forward?

PROF. MEISEL: Mr. Chairman, could I ask one further question of theconstitutional committee? This is again a matter of curiosity on my part.

I take it that the members of the constitutional committee believe that, say, Mr. Lesage's refusal to go to the Supreme Court on the matter, say,of off-shore mineral rights, is the sort of thing that no tampering with the Court would successfully cope with unless the Court's powers were so emasculated as to remove the Court really from its present important position in the

Canadian constitutional system?

PROF. McWHINNEY: I have a letter to the Globe and Mail that was issued several months ago. I think there is a mixture of reasons in Mr. Lesage's approach. The technical-legal position is that he does not think advisory opinions are a good thing, and most federal constitution lawyers in most countries would agree with him, that this is a jurisdiction which ought to be abolished, but it exists in Canada. As a result I am sure he expects he may lose. That is a political ---

THE CHAIRMAN: His argument at the conference in the summer was quite emphatic, that he regarded this as a political and not as a legal or constitutional questions; therefore it did not imply disregard of the Court but rather a problem of a different area.

DR. FORSEY: If it is not a legal question the Court will so rule and the thing will disappear; if the Court rules it is a legal question, it is a legal question.

MR. MAGONE: He is not the only one who says that. There are three or four provinces got on the bandwagon and said it is really a political matter and should not be determined in any legal sense, for the same reason, that they think they are going to lose.

PROF. McWHINNEY: We do not really recognize

this dichotomy of legal and constitutional questions. The United States did, if you remember, on the election apportionment cases, and for fifty years it was ruled that these were political questions and non-judicial. This was over-ruled five years ago.

Fortunately we do not have such a dichotomy in our law. I think essentially this is so, as Mr. Magone mentinns, that apart from the advisory opinion issue, which I think is probably well taken in comparative terms, it is really a feeling of "I am going to lose".

THE CHAIRMAN: Is your apprehension hard to live with?

PROF. MEISEL: No, it has disappeared.

PROF. FOX: I do not want to prolong this, but is section 2 factually accurate? I pose this question to the lawyers in our midst.

PROF. McWHINNEY: It was deliberately worded as the result of very voluble representations by Donald, which impressed us very much. It really says the right of any person to appeal to the Supreme Court of Canada on any issue ought to be unlimited.

PROF. FOX: That is what I thought.

PROF. McWHINNEY: We gave some thought to it, and Donald was very much impressed by the diction of the American constitution. Instead of saying these rights ought to exist, you say they do exist.

We thought this was a very felicitous point.

PROF. FOX: But do they in fact exist? Can I appeal a parking ticket conviction to the Supreme Court of Canada?

PROF. McWHINNEY: No. Donald is with you. He wants to be able to appeal, he says you ought to be able to.

PROF. FOX: Why don't we say "ought to be"?

PROF. McWHINNEY: For the reason of felicitousness in drafting.

DR. FORSEY: And it goes beyond parking tickets. Some years ago when the Prince Edward Island Legislature passed what we in the trade union movement regarded as a peculiarly obnoxious statutes, we considered what we should do about it, and one suggestion was that one of our trade union officials should go down there and break the statute and get himself arrested and get the case before the courts that way. Mr.E.B.Jolliffe, Q.C., who was giving us legal advice at the moment, said: "That won't do you any good because the law in Prince Edward Island is such that you could not get past the Supreme Court of Prince Edward Island".

He could not get to the Supreme Court of Canada, so we decided the only thing to do was to petition for disallowance, which we did and whether this had any persuasive effect, I do not know, but the Legislature the next year repealed most of

the obnoxious legislation.

PROF. McWHINNEY: If you read paragraph 3 of the report, you will notice that Bill has introduced some means of making appeals more effective, simplifying procedures, simplifying financial arrangements. I think you would have to read paragraph 2 of the resolution in conjunction with paragraph 3; but I agree with Donald, rather than making gerundial type of propositions, I rather like to state they do exist.

PROF. CREIGHTON: I think you ascribe too much effect to my advocacy of these matters. I do not remember expressing so emphatically the use in the present tense of the verb "to be". My insistence was on the word "unlimited" which I think is the key word.

PROF. McWHINNEY: But I do remember the business because of this feature of the American constitution.

PROF. CREIGHTON: In any case, I thought it was a very good word to use in this connection.

DR. FORSEY: In any event, this is just a trifle here, because I do not think anybody is really suggesting that if Paul gets a parking ticket you should be able to carry it to the Supreme Court of Canada.

MR. MAGONE: You can with leave of the court, yes, you can.

MR. SEGUIN: Under the Criminal Code you can.

MR. MAGONE: It is up to the Court. One of the Quebec cases was a by-law of the municipality about distributing bills, or something.

DR. FORSEY: There is a limit, though.

PROF. FOX: I just think we should be accurate, that is all. I have no strong feelings. I now terminate my participation.

THE CHAIRMNN: I will take note of this when I refer the editing to the Chairman, I think.

PROF. CREIGHTON: So it is back to the Chairman.

DR. FORSEY: You might deal with it as Selby Barrett when he made a speech about: "What we need in this country is more machine guns" and as he said it all the reporters ran for the exits to get this on the wire right away. They didn't wait for the rest: "And when I say machine guns, Brother Chairman, I mean ballot boxes". Perhaps Dean Lederman will have something to say, that when he says unlimited he means not quite unlimited.

16 THE CHAIRMAN: We have one other resolution which is probably not as felicitously or carefully worded in view of its rather forced development this afternoon. Craig, would you like to read the resolution which is before the members.

PROF. McIVOR: I think we all have the

resolution in front of us, Mr. Chairman. We think it gives effect to the rather strong position that was expressed by the committee in discussion this morning.

"Your Advisory Committee has discussed the "prospective schedule of meetings and "negotiations for the renewal of the "financial arrangements between the federal "and provincial governments in 1967. It "would appear that the main decisions relating "to this renewal must be made between now "and the coming summer, in order that "federal legislation be introduced this fall. "Your Advisory Committee has also taken "cognizance of the fact that two very "important reports of Royal Commissions on "Taxation - those of the federal and "Ontario governments - will appear during "the time that these important negotiations "are taking place. The Committee is deeply "concerned that the recommendations that these "two Commissions will bring forward will "inevitably receive inadequate public "discussion and official assessment in the "short time available for considering them. "It foresees the possibility that new fiscal "arrangements may be entered into for another "five-year period which would prevent any

"action being taken on these recommendations "for several years. It is the view of your "Committee that, having regard to the fact "that the new fiscal arrangements will "fundamentally affect the future pattern of "development of the Canadian federal state, "it would be most unfortunate to adopt any "new program without full consideration "being given to the proposals of the two "Royal Commissions.

"We therefore unanimously recommend that "the Prime Minister of Ontario take such "action as is necessary to postpone the "adoption of any new fiscal agreement for at "least one year. We recognize that "financial adjustments would be necessary to "cover the interim period, and we suggest "that these take the form of an extension of "the existing arrangements, combined with "whatever adjustments are deemed desirable, "after consultation between the federal and "provincial governments."

PROF. FOX: Very good, Mr. Chairman.

MR. STEVENSON: Mr. Chairman, just a couple of minor points. First, I notice you have changed the name of the sub-committee.

PROF. McIVOR: This was unintentional.

MR. STEVENSON: Fine. Secondly, is the

Ontario committee a Royal Commission?

MR. McIVOR: Yes, it is.

MR. STEVENSON: It did not start out that way.

PROF. McIVOR: Yes, it does. The name does not indicate it, but it is a Royal Commission. I think the Prime Minister had the view that if we named a committee it would work harder than a Royal Commission. That was the philosophy behind it.

THE CHAIRMAN: Work harder, and receive less money.

MR. STEVENSON: The third point, in the second sentence, the schedule that federal legislation be introduced in the fall, and that the main decisions must be made between now and the summer: my understanding of the schedule is that the final decision would probably not have to be taken until the fall. The decision, or at least some kind of agreement, would have to be reached by the civil servants and then by the Tax Structure Committee perhaps by the end of the summer, but the final decisions which would be taken by the Prime Ministers would probably not have to be taken until the fall, and that legislation might be introduced in the fall or any time prior to April 1st really.

MR. GATHERCOLE: Yes, they might even go up to next spring, well into the spring.

MR. STEVENSON: Surely.

THE CHAIRMAN: The other day Bryce said

that they would have to have legislation ready by October.

MR. STEVENSON: They would have to have agreements by October so that they could prepare the legislation. Then it would have to go into all the budgets of the eleven governments prior to April 1st.

THE CHAIRMAN: You are quite right in that this suggests that the work going into such decisions that would be taken would have to be completed by the summer and between August and October the summit conference would take place.

MR. STEVENSON: Another small point was where you have the sentence:

"It foresees the possibility that new
"fiscal arrangements may be entered into
"for another five year period, which would
"prevent any action being taken on these
"recommendations..."

I am sure that there are a number of recommendations of both Commissions which probably can be taken into account without necessarily upsetting the federal-provincial agreements.

PROF. McIVOR: May I suggest "fundamental action" or something of that sort.

THE CHAIRMAN: Where is this?

MR. STEVENSON: Just over halfway down. Take out "any"?

THE CHAIRMAN: "Fundamental" or "basic".

MR. GATHERCOLE: "Well considered action" or something of that.

PROF. McIVOR: I would suggest "comprehensive action", I think might be the most appropriate word.

DR. FORSEY: "Prevent comprehensive action"?

PROF. McIVOR: Yes. Subject to the re-wording suggested by Mr. Stevenson, Mr. Chairman, I would just formally move that this Committee transmit this resolution to the Prime Minister.

THE CHAIRMAN: It is moved that the resolution be transmitted.

PROF. MEISEL: Is the Committee happy about "at least one year"? It seems to me earlier it was argued that one year was not enough. Is it too difficult to be more precise? We are in effect saying "at least one year" but the word that will be remember will be "one".

PROF. McIVOR: I think it is really difficult to be very precise in this matter.

PROF. FOX: It strikes me that you are apt to get more favorable response if you specify one year than if you ask for two years or something of that sort.

THE CHAIRMAN: I think we are covered with the "at least". John's point is well taken, but I think one year is something that could be

politically palatable in the way that a further degree might not.

DR. FORSEY: You have covered it by the other language "at least". I doubt if Mr. Mackenzie King could have thought up a better parachute than that.

THE CHAIRMAN: The changes as I have them would suggest for the second sentence:

"It would appear that the work relating "to the main decisions ..."

MR. GATHERCOLE: Mr. Chairman, could I just raise this question on that? I think Mr.Stevenson makes a very good point here, because there is no doubt about it that if the plan is evolved during the summer or fall and the provinces are aware of the form of the new structure that may come into existence, well, they can adapt themselves to it and legislation can even be introduced in the House of Commons next spring, or even perhaps somewhat later than that.

For that reason I think we overstate the case a little bit here, and we do not need to because time is going to be very pressing and precious in any event, and I think we ought to make it a little more factually correct.

I think the point is well taken, and I would suggest that it may be made now "between now and --" I would move the summer back until

[illegible] a [illegible] in [illegible] a further

[illegible] .

Dr. [illegible]: [illegible] solved is by the

[illegible] at [illegible]. I doubt if

[illegible] [illegible] up a better

[illegible] than that.

Mr. HEIRMAN: The changes as I have them

would suggest for the [illegible] sentence:

"[illegible] approach [illegible] the work relating

to the [illegible] ..."

Mr. CHAIRMAN: Mr. Chairman, could I just

[illegible] a question [illegible] think Mr. [illegible]

[illegible] very good [illegible] Professor there is

[illegible] about it [illegible] [illegible] the

[illegible] summer or [illegible] [illegible] are [illegible]

the form of the new [illegible] that may [illegible]

existence. Well, they are [illegible] [illegible]

and [illegible] [illegible] [illegible]

of [illegible] next [illegible] [illegible]

later than that.

For that reason I think we [illegible] that

[illegible] a little bit here, and we [illegible] [illegible]

time is going to [illegible] [illegible] and [illegible]

any event. And I [illegible] [illegible] [illegible] a little

more [illegible] [illegible].

I think [illegible] it is [illegible] and

I would [illegible] [illegible] [illegible]

[illegible] and [illegible] [illegible] [illegible]

the end of the year or some approximate date.

THE CHAIRMAN: I was going to go on, George, here to say:

"It would appear that the work relating "to the main decisions must be undertaken "between now and the coming summer, in "order that the negotiations might be "concluded in time for implementation in "the following fiscal year"

PROF. CREIGHTON: In order that -- what is the substitution?

THE CHAIRMAN: "... in order that the "negotiations be concluded in time for "implementation in the following fiscal "year."

MR. GATHERCOLE: The work might be carried on though even later than the summer. I think that is still a very real possibility. I think you will find that to be the case.

PROF. CREIGHTON: Will you read that sentence over again as now amended, Mr. Chairman?

THE CHAIRMAN: "It would appear that the "work relating to the main decisions must "be undertaken between now and the "coming summer, in order that the "negotiations be concluded in time for "implementation in the following fiscal "year."

It implies that you have all the legislation and all the provincial budgets and everything else in that space of time.

I am not wedded to that wording if there is any suggestion for improvement. You are still worried about the summer and the work times, George, are you?

MR. GATHERCOLE: I think it overstates the immediacy of the work. I would suspect that the work is still going to go on well up into the autumn and, of course, the end of the year. That would be my assessment.

DR. FORSEY: Could you say within the next six months?

THE CHAIRMAN: Yes.

DR. FORSEY: That would carry it to about the beginning of September, wouldn't it, or is that too long a time? I don't know.

MR. GATHERCOLE: Supposing you change "summer" to "autumn".

DR. FORSEY: I think that might be a little vague, because that might take you on into November, and this seems to be prolonging it a little unduly.

PROF. McIVOR: I would just say "before the end of the summer".

DR. FORSEY: That takes you to September 21st.

PROF. McIVOR: It is as good a date as any

other.

DR. FORSEY: I see Mr. Gathercole's point, but I am a little afraid of going too far in the other direction and taking too much of the sense of urgency out of it.

MR. GATHERCOLE: If it is made the end of the summer, I suppose that is approximate enough.

PROF. McIVOR: Sure.

PROF. SYMONS: Before the end of the summer?

THE CHAIRMAN: Yes.

DR. FORSEY: Between now and the end of the summer then.

THE CHAIRMAN: Before the end of the summer, I think we got.

PROF. MEISEL: "To be undertaken before the end of the summer".

THE CHAIRMAN: "Must be undertaken before the end of the summer".

DR. FORSEY: Wait a minute.

"It would appear that the work relating "to the main decisions must be undertaken"?

17 THE CHAIRMAN: Yes.

PROF. McIVOR: Must be completed.

MR. STEVENSON: Yes, completed.

DR. FORSEY: Surely that is saying too little.

PROF. McIVOR: "Must be completed before the end of the summer", that seems satisfactory.

THE CHAIRMAN: Then we changed "any action"

to "comprehensive". Are there any other changes proposed? I think the spirit is there.

DR. FORSEY: May I suggest that we could change "having regard to", that dreadful lumbering phrase, if you could smooth it out by saying "since the new fiscal arrangements will ...". Some of these phrases make me feel -- especially the learned documents where I encounter them most often -- make me feel as if I were walking with lead-soled boots through wet seaweed. What a laborious job, especially if the sentences are fairly long anyway.

THE CHAIRMAN: The point is well taken. Any other clarification or adjustment?

Well, it was moved. I take it we do agree unanimously with the resolution? Good.

The other matter arising from the fiscal and economic sub-committee is the proposal that we shall have a meeting of our sub-committee two weeks hence, at which time the various papers we have been discussing will be ready in a comprehensive document of points and proposals and policies, which we will work over and then send around to the Committee, so that at our next meeting on March 18th we will have an agreed paper to discuss.

Is there any other business?

PROF. SYMONS: Move to adjourn.

---The meeting adjourned at 5.15 p.m.

ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

M E E T I N G

held at

950 Yonge Street,
and
Park Plaza Hotel,
Toronto

on

FRIDAY, MARCH 18th, 1966

VERBATIM REPORT OF PROCEEDINGS

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ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

Meeting held at 950 Younge Street and the Park Plaza Hotel, on FRIDAY, MARCH 18, 1966.

PRESENT:

Mr. I. Macdonald (Chairman)

Prof. A. Brady

Prof. J. Conway

Prof. D. Creighton

Dr. G. Forsey

Prof. P.W. Fox

Mr. G. Gathercole

Dean W.R. Lederman

The Rev. Dr. L. Matte

Prof. R.C. McIvor

Prof. E. McWhinney

Prof. J. Meisel

Mr. H Perry

Mr. R.N. Seguin

Prof. T.H.B. Symons

Mr. D. Stevenson) Co-Secretaries
Mr. R. Farrell)

THE CHAIRMAN: Before we begin our official business, gentlemen, I wanted to take note of one event. Shortly after we last met in full Committee, we had the news of the untimely death of a person who was, in some sense, the genesis of this group, and whose continuing interest was very high and very great in our affairs. I would like to ask Professor Fox if he would say an official word on our behalf.

PROF. FOX: Mr. Chairman, I ask the permission of the Committee to introduce a formal motion in regard to the late Mr. George Hogan, Jr.

I would move, Mr. Chairman, that this Committee note in its minutes with the deepest regret, the death on February 20th of Mr. George Hogan, Jr.

Mr. Hogan was one of the persons most responsible for the establishment of this Committee. Its creation was a reflection of his sincere belief in the importance and necessity of the application of reason and research to the political process.

An advocate of intellect in politics, Mr. Hogan was himself a man of keen intellect. He was also a devoted student of Canadian history. He had a great commitment to his country's democratic politics and undoubtedly would have contributed even more in the future than the

large measure he had in the past. He was also the good friend of many members of this Committee.

I think it would be fitting, Mr. Chairman, for this Committee to pay tribute to the late George Hogan by expressing its deepest regrets in his untimely death.

THE CHAIRMAN: I am sure this motion meets with the approval of the group, for permanent record in the minutes.

DR. FORSEY: May I suggest also, Mr. Chairman, unless there is some objection to it (which I do not see) that this resolution might be communicated to Mr. Hogan's family.

THE CHAIRMAN: I take it that this additional suggestion would be well received?

PROF. CREIGHTON: This is perhaps your purpose, Professor Fox.

PROF. FOX: Yes, I would like it to be entered in the minutes too, I think.

THE CHAIRMAN: Fine. Thank you. On a happier note, I would like to convey on my own behalf and on behalf of the Committee, the congratulations to one of our members, Mr. George Gathercole, whose appointment as Chairman of the Ontario Hydro was announced this week.

--- Applause

MR. GATHERCOLE: Thank you. We almost

electrocuted one man who was taking my picture for television -- not quite. We are looking forward, however, to keeping the power on.

THE CHAIRMAN: Now, as you know, we have a short time before us, before we adjourn for lunch. I seem to be having a cycle of the good and the bad things in succession here. I was told this morning that Mr. Robarts was taken ill last night with the flu and regretted very much that he is at home in London and would not be with us. It is upsetting news indeed.

The other members of the Cabinet committee will be present, and I think we can carry on as well as we can and report to him fully on the proceedings.

The agenda for the day which we had discussed was to try and have lunch as quickly as possible, and to have some general plenary discussion after lunch; then to break up into individual groups.

I am going to suggest that we still adhere to that form. Immediately after lunch I will say a few words for the benefit of the members of the Cabinet Committee on our present activities. This can be fairly brief, I trust, because I have circulated today a report of work we have done and our work in progress, which you have before you this morning.

Then there may be one or two items of general discussion that some of you wish to raise. I believe Professor Brady has one point, for example, he would like to talk about in the general group.

Then, as the research policy sub-committee proposed, we go into the sub-committees.

At this point it is time for me to mention, on behalf of Mr. Perry's committee, the state of the long-awaited document on the economic and fiscal side, the report on Ontario's position in the federal-provincial financial relations. It is almost there, gentlemen.

PROF. CREIGHTON: Hurrah!

THE CHAIRMAN: We feel that two more hours of editorial work in committee will see this in from the labour room, so to speak.

We thought originally the Prime Minister and the Minister of Transport might join this sub-committee, that the Minister of Education might join the cultural committee, and that the Attorney General might join the constitutional committee; and our sub-committee thought this morning that perhaps, with the absence of the Prime Minister, we should concentrate our time this afternoon working on our own and cleaning up this document; having the Ministers sitting with the other committees, if this meets with the agreement of the other committees. Perhaps the

Minister of Transport could sit in on whichever of the two committees he felt most interested in.

Then we come back about four o'clock -- and I should say it is all in the Park Plaza this afternoon. We have in the Park Plaza the room where we are lunching, and two suites, and these will be the sites of the three committees. Then we will re-assemble in the French Room at four o'clock for a final plenary session.

I am getting a bit ahead of myself, and perhaps since the reasons for these proposals are contained in the report of the Research-Policy sub-committee, I should ask Professor Creighton if he would be good enough to read that report.

PROF. CREIGHTON: I don't quite know why I am asked frequently to do this, except I suppose on the analogy ---

THE CHAIRMAN: Division of labour.

PROF. CREIGHTON: --- of the visiting clergy being asked occasionally to read the first Lesson or something like that. Here we go.

1. Resolution of the Advisory Committee Concerning the Federal-Provincial Tax Sharing Agreement

Mr. Macdonald reported that he had sent the Advisory Committee's resolution to the Prime Minister along with the note on certain conditions which should be taken into account in reaching a

decision. He added that the Ontario Committee on Taxation had also suggested to the Prime Minister that the final five-year agreement be delayed.

2. The Constitutional Sub-Committee

The Chairman reported that Dean Lederman was re-wording the Constitutional Sub-Committee's proposal regarding the Supreme Court in the light of discussion at the last meeting of the Advisory Committee. He reported that Dean Lederman was also in the process of preparing a paper on the considerations involved in preparing an alternative to the Fulton-Favreau formula. The Chairman said that Mr. Delisle, who has recently completed a law course, had begun work and will be available to do research for the Constitutional sub-committee. It was suggested that the staff might attempt to collect and classify statements made in Quebec on the subject of special status or associate states which could later be discussed by the Committee as a whole.

3. Cultural Sub-Committee

The Chairman said that he would contact Mr. Davis again concerning Professor Fox's project on education in French in Ontario public schools.

4. Fiscal and Economic Sub-Committee

Mr. Macdonald reported that the Fiscal and Economic Sub-Committee would be meeting on March 11 to discuss a paper which he hoped could

be edited for distribution to the main Advisory Committee. --- and is not quite ready yet, I gather.

5. Debates in the Legislature

Mr. Macdonald mentioned that the status of the Advisory Committee had been discussed in the Legislature during the debate on the Speech from the Throne and on the estimates of the Prime Minister's Department. The sub-committee agreed that, although the subjects discussed by the Advisory Committee could well be made public, there would be some objection to making public any of the papers which had been sent in to the Prime Minister.

6. Students for the Summer

Mr. Stevenson reported that of the 13 students who would be working for the summer of 1966 in the Office of the Chief Economist, 4 or 5 would be suitable for work on subjects of interest to the Advisory Committee. In addition to Mr. Delisle who could work for the Constitutional sub-committee, he suggested that Mr. Mailhot could prepare material on current thinking in Quebec and particularly a catalogue of material on special status or associate states. He also said that Messrs. Auld, Johnson and Perrault had some experience in Federal-provincial economic and fiscal relations. It was suggested by Professor Fox that any students working for the Advisory Committee should come

under close supervision, perhaps having a weekly meeting with a member of the Advisory Committee acting as supervisor.

7. Expenses of Advisory Committee Members

It was recommended by all members of the sub-committee that payment of the per diem fees should relate to time spent at meetings and preparing or supervising research, but that compensation would not normally be appropriate for time spent reading in preparation for Committee meetings.

8. Meeting of March 18

The Chairman reported that a special Cabinet Committee had been formed of the Prime Minister, Mr. Davis, Mr. Wishart, and Mr. Haskett who would be meeting with the Advisory Committee for luncheon and the afternoon on March 18. It was agreed that the sub-committees should meet from 9:30 until 12:00 at which time there would be a short plenary session. At 1:00 the luncheon with the Cabinet Committee would take place. It was suggested that in the afternoon the group should meet in sub-committees with one or two members of the Cabinet with each group. There would be no meeting in the evening nor on the following day.

9. Future Meetings

Professor Brady reported that he was working on his paper and that perhaps his work on

federal-provincial conferences might be contained in a separate paper. It was suggested that members of the Advisory Committee be canvassed on March 18 as to the possibility of a seminar-style meeting on Saturday, April 23, to discuss Professor Brady's paper.

All of which is respectfully submitted.

THE CHAIRMAN: Thank you very much. Are there any questions arising out of those minutes, any items for discussion?

PROF. FOX: Perhaps the meeting contemplated for April 23rd might be explained in more detail, if any members need explanation on it.

THE CHAIRMAN: Well, the list seems to be a fairly good result. Everyone has indicated, of those who are here - and Dean Dillon and Mr. Magone are absent today but we can be in touch with them - everyone has indicated that they could attend, with the exception of Professor Meisel who may have some problems, I gather.

PROF. MEISEL: I may be able to make it. I am not quite sure yet.

THE CHAIRMAN: Well, the reasons I mentioned there were the question of the preceding week being the Easter week, and the three members we knew who could not attend on the 15th, two of whom were from the Economic and Fiscal committee; and a little more time for Professor Brady.

Then we thought we might perhaps have this meeting at the Inn on the Park or somewhere where we were a little less institutionalized and perhaps a little more relaxed, sitting for the day and not being a business day perhaps not under the constant pressure of calls coming in. I cannot remember any further discussion on that, Paul.

PROF. FOX: Just that we might possibly run on into the evening.

THE CHAIRMAN: Oh yes.

PROF. FOX: If members would like to keep the evening free, if they could.

THE CHAIRMAN: Make a day of it, a long session; have a dinner and an evening.

PROF. CREIGHTON. That means staying overnight for the people who come here by train.

PROF. FOX: It might, unless they get a
2 late plane or something.

PROF. CREIGHTON: Can't get planes to most places where people go to because there aren't any.

PROF. FOX: They still run to Ottawa.

PROF. CREIGHTON: Not many people go to Ottawa; they go to Kingston or London. One who goes to Ottawa is all right.

DR. FORSEY: As President of the Travel-by-Train Club, the late George Knowlan, the previous national President, being defunct, I won't travel by plane if I can avoid it.

PROF. FOX: The other point was we would then cancel the regular April meeting; this would be a replacement.

THE CHAIRMAN: We will have Prof. Brady's paper. We will also have the Economic and Fiscal sub-committee paper.

THE CHAIRMAN: I hesitate to suggest making more than a full day of it and carrying on into Sunday. It depends whether you think we have enough work to make good use of that time, and whether we should over-tax our resources.

DR. FORSEY: Something depends on whether we get the papers a reasonable time in advance. Are you reasonably sure of that? I know accidents will happen, but if we get it the day before, it is going to be very difficult to give adequate consideration to what I think will in each case be a very important and probably complex document.

THE CHAIRMAN: And a rather key time in our whole business, for reasons I will mention at noon today after luncheon.

Harvey, we are, I think, as confident as our past record leads us to believe, of having our paper, aren't we?

MR. PERRY: I agree with those remarks. I think we are definitely now in the polishing-up phase, and I would hope that within a week we

could circulate this paper.

MR. GATHERCOLE: I would think, Mr. Chairman, that the April date, the 23rd, would that not coincide with a play-off game in the National Hockey League?

THE CHAIRMAN: I thought you were going to say for St. George's Day.

PROF. McIVOR: Are you suggesting that you have access to tickets?

MR. GATHERCOLE: No, I have not, but I certainly enjoy seeing the play-off games on television.

THE CHAIRMAN: George, you are a man of many parts. There are now transistor radios with ear pieces. You could attend two situations at once, couldn't you?

PROF. CREIGHTON: Doubtful.

DR. FORSEY: Mr. Gathercole might take it, in view of his first name, as a subtle compliment that we should hold the meeting on St. George's Day.

THE CHAIRMAN: Now you have given him a rather exalted position.

MR. GATHERCOLE: I am quite satisfied with giving up the Saturday from other things that might be done, but if it is a play-off game at night ---

THE CHAIRMAN: I think they will be playing Sunday that week.

MR. GATHERCOLE: I was just wondering about the evening, that we might be able to finish in any event by seven o'clock if we really get down to business and push it through.

PROF. CREIGHTON: Hear! Hear!

PROF. BRADY: I think probably it may be wiser, Mr. Chairman. Three sessions, morning, afternoon and evening, are pretty strenuous really.

PROF. CREIGHTON: Hear! Hear!

PROF. BRADY: I suspect everything of consequence can be disposed of.

THE CHAIRMAN: If we get off to a good start in the morning, have a morning session, lunch; then carry on with perhaps a tea break and perhaps a little work after tea and break up for dinner, for those who wish to remain and, for those who wish, to depart, I suppose we would do it.

PROF. CREIGHTON: Have to be earlier than seven, won't we?

MR. GATHERCOLE: You suggested having it in the Inn on the Park, or some other place. Is there any real preference on that?

THE CHAIRMAN: Perhaps a downtown hotel would be better.

MR. GATHERCOLE: I was going to say, are there any better facilities than you have got here?

MR. SEGUIN: The Royal York is handy for

people taking the plane, as far as spending a day inside is concerned. If we were going to spend the day in the Park, it would be all right.

PROF. FOX: I think it is probably more convenient to meet somewhere downtown.

THE CHAIRMAN: We had better meet downtown. I don't know why I keep having this bug about the Inn on the Park, because I haven't been there perhaps. It is a bit off the beaten track. I think perhaps downtown.

MR. GATHERCOLE: It is up in Bayview.

MR. STEVENSON: Leslie and Eglinton.

DR. FORSEY: In the days when the C.P.R. still ran trains, you would see it.

THE CHAIRMAN: I take it the day seems generally convenient. We should make it the day and try and have a good working day at it. I think there is some merit in the Saturday as far as working conditions are concerned, although I think no one likes to give up a day from home.

PROF. BRADY: Is this not a feasible place on Saturday?

THE CHAIRMAN: Well, it is indeed, if you like to work here.

PROF. FOX: Eating facilities might be difficult.

THE CHAIRMAN: Eating is more difficult on Saturday.

PROF. FOX: This restaurant would be closed.

PROF. BRADY: No.

THE CHAIRMAN: Well, we will have the Policy Research committee investigate the relative congenial conditions.

DR. FORSEY: Are the preferences of the non-gourmets adequately represented on the policy committee?

PROF. McIVOR: The proposal is we have two major areas of discussion, is that so?

THE CHAIRMAN: I would like to have some guidance on this, because we have always been saying we would set a full day apart for Professor Brady. We are also worried about getting on with this Economic and Fiscal discussion. That is really why I was wondering if we had enough time in one day to do it adequately.

PROF. BRADY: Actually the two themes run into each other.

THE CHAIRMAN: They do really.

DEAN LEDERMAN: I am sure these two things can fill the day.

MR. GATHERCOLE: Yes.

PROF. FOX: Why don't we take the full day and see how far we get? It may be useful to have a month in between. What other individuals say in the session might provoke further thought, and people want to go back and look things up.

PROF. CREIGHTON: You would like to have a little longer time, is that it, Ian?

THE CHAIRMAN: Really this has to be governed by what we expect to produce. I do not want to get ahead of myself because I wanted to make some of these suggestions when we meet with the Cabinet Committee today, but it is a year tomorrow since we have been meeting and, as I have mentioned before, situations are coming to a head.

From this type of comprehensive review we are having, I would hope we would be in a position to start producing a comprehensive statement on a wide number of questions. We will need a bit of time to work it out and we may not reach a consensus on it, although I do not think this is impossible, but we do have to settle it quickly.

PROF. CREIGHTON: Why don't we meet for two days, Saturday and Sunday, on the 23rd and 24th?

PROF. McIVOR: With no Saturday evening session?

PROF. CREIGHTON: I think two sessions are enough for one day. I think we must have the evening off.

THE CHAIRMAN: Do you have any objections to that, Roget, Father Matte?

MR. SEGUIN: I would rather have Friday and Saturday.

FR. MATTE: Same for me.

MR. SEGUIN: And have at least one day off from work completely.

THE CHAIRMAN: Well, we get into the same difficulties as when we discussed postponing a week last time. In this case the 22nd or Friday was equally difficult for a number of people and that was the only reason we went on to suggest Saturday. Would a two-day seminar, Saturday and Sunday, be acceptable? We have got to make a break-through at some point here.

DR. FORSEY: Conceivably we might get through Saturday. I do not like doing it, I dislike doing this sort of thing on Sunday on principle, but I am obliged to yield to the pagan majority in many cases; but presumably we might just conceivably get through on Saturday, especially if you, Mr. Chairman, will use your powers to put the green baize bag over people like me and shut us off on time. I shall happily volunteer.

THE CHAIRMAN: You bring the bag and I will administer the treatment.

PROF. McWHINNEY: It will be helpful to have
3 it decided, because lots of us -- I have to be in Washington about that time and if we are going to meet Sunday I would like to know it is definite pretty soon. In other words, I think the contingent basis really is more objectionable.

DEAN LEDERMAN: All our experience indicates we had better plan on two days, does it not?

THE CHAIRMAN: I would have thought so.

PROF. McIVOR: I think that is sound.

PROF. CREIGHTON: If we did that, can you reserve rooms for those who have to be staying in town?

THE CHAIRMAN: Yes, I think we should make a week-end seminar of it. I think in some ways, having a little more time and little more relaxed conditions may be very productive. I am always conscious of the breathlessness with which we seem to proceed through this, and I think at some point many of us have thought we needed substantial time to break through on a number of things that are hanging on and hanging on.

DEAN LEDERMAN: Mr. Chairman, this means having a good hotel with all of us in it.

THE CHAIRMAN: Yes.

DEAN LEDERMAN: And the out-of-towners staying in the hotel.

THE CHAIRMAN: I don't know whether you have any preference for the Royal York or the Park Plaza.

PROF. McWHINNEY: Mr. Chairman, perhaps you should reconsider your original suggestion then and meet some place like the Inn on the Park and having everybody meet there. You do in fact get

more ---

THE CHAIRMAN: Will you leave this with our sub-committee?

PROF. McWHINNEY: Even with the Toronto people, it might be more work would be done by staying.

MR. PERRY: There is a rather gay atmosphere about the Inn on the Park over the weekend. You would feel somewhat reluctant to find yourself working there.

PROF. FOX: Have you met there very often?

PROF. CREIGHTON: I just have a suspicion when I pass the thing in the train from Peterborough.

THE CHAIRMAN: We could go in the King Edward or some other.

MR. GATHERCOLE: It is hard to surpass the Royal York actually for accommodation of all kinds.

MR. SEGUIN: You have got everything.

MR. GATHERCOLE: The Park Plaza is also satisfactory.

PROF. CREIGHTON: Park Plaza.

THE CHAIRMAN: We will settle this. I imagine we may settle it in the Park Plaza. The Park Plaza know us well and have looked after us well.

PROF. McWHINNEY: It is the most sophisticated area of Toronto.

THE CHAIRMAN: All right. About this afternoon, it is a great pity that the P.M. is not

here and I am a little worried about how we should approach this and in particular, dispose of the problem as far as the economic and fiscal committee is concerned, because we are going to have a working session. What about the other two committees as far as your meeting with the Cabinet is concerned? Are there particular things that you think the work of the sub-committees will be furthered by a detailed discussion with the Ministers upon?

DEAN LEDERMAN: I think we have been over our things this morning, Mr. Chairman. I think we can fill quite a period in discussions with the Attorney General.

THE CHAIRMAN: That is good.

DEAN LEDERMAN: I do not think there has been any problem. In fact the solution may be to break up into sub-committees pretty quickly.

THE CHAIRMAN: Right. I think in this case we will, because the Prime Minister was going to say something about his feeling for this Committee and I am not certain whether the Attorney General, who will be standing in in effect now, will wish to or not (I doubt it). I think probably we will go into committees very quickly.

PROF. McWHINNEY: Mr. Chairman, you circulated the Hansard and there were various suggestions from the Opposition parties on the committee. We thought on our committee that the Premier

probably would say something about this.

THE CHAIRMAN: Yes.

PROF. McWHINNEY: Are you in a position to?

THE CHAIRMAN: All I did was to say that we have noted these, and I felt it was his prerogative to discuss with us his position viz-a-viz the Opposition or the Government as he chose. I did not feel it was something that we should initiate and I do not know what he feels.

I was a little disconcerted, as I confessed to the members of the sub-committee the other day, to see my own name used quite so frequently. I have always thought it was a parliamentary practice not to name civil servants in the House.

PR OF. CREIGHTON: Since they have begun, all parties anyway, down at Ottawa, it is more natural they should do so.

PROF. McWHINNEY: You are not in a position now to make any statement as to what the Premier or ---

THE CHAIRMAN: As far as I am concerned, our terms of reference were explicit when we were appointed as an Advisory Committee to him. It would be his privilege, I would presume, to alter that conception if he was so inclined.

DEAN LEDERMAN: The papers, Mr. Chairman, are all private documents, and they are not to be released.

THE CHAIRMAN: No.

DEAN LEDERMAN: That is understood.

PROF. McWHINNEY: But one specific statement by the Premier, it seems to me, was that he said he would release or would be prepared to release a list of the papers, was it not? Is that his position?

THE CHAIRMAN: I know he did want to talk about that particular point with the Committee.

PROF. CREIGHTON: We were rather apprehensive about that, in the constitutional committee as inviting enquiry as to why this or that paper may not be released.

THE CHAIRMAN: I really feel that these questions are questions that only he can answer, and it would be unfair to pose them to the other members of the Committee.

PROF. McWHINNEY: He has not authorized you to make any statement?

THE CHAIRMAN: No.

DEAN LEDERMAN: We will just have to put it off and hope that he can give us the direction in which they would go in April.

DR. FORSEY: Thestatement here on page 795 made me a little uneasy where he said he would be glad to get a list:

"I will get you a list of them, I would
"be happy to prepare a list of the

"various areas"

and then Mr. MacDonald said, ignoring the list:

"Not only the studies, but the results.

"Can we have them or not?"

and the Premier said:

"There have not been many results to

"date. That is the fact of the matter.

"The studies are continuing."

then Mr. MacDonald:

"When they are finished, can they be

"made available?

"HON. MR. ROBARTS: I would say

"that the Committee is set up as an

"advisory Committee to the Government,

"which means everything it does is not

"necessarily public. However, it does

"not mean that everything it does is

"necessarily private. Let me put it

"that way."

and then Mr. MacDonald - and here comes one of the more brilliant expressions of the new political science:

"But the government includes the

"Opposition as well as the administration.

"HON. MR. ROBARTS: That is right, you

"are quite right, and I would have no

"hesitation in putting these things into

"the public domain so that we have the

"benefit of these men's work."

Now, I don't know whether everything that we have done here so far is such that it should go into the public domain as it stands, certainly when some of these things were prepared by people on the understanding that they were confidential reports to the Premier and to the Cabinet.

Personally I am prepared to put the whole of my work on anything I have done, in, I do not care a hoot; but there might be certain instances in which people would not wish to do this.

There is also the question about this verbatim record of our proceedings. Would that be tabled? Is that to go into the public domain? I would think certainly it would not.

THE CHAIRMAN: Certainly the proceedings there are our private business. I have never passed these proceedings on to the Prime Minister. These were for the purposes of internal administration, so to speak.

MR. PERRY: Anyway, as a matter of the government, the Leader of the Opposition will be seeing them in the natural course, wouldn't he?

THE CHAIRMAN: What?

MR. STEVENSON: If he is part of the government.

PROF. McWHINNEY: We have spoken off the record so much in our general proceedings,

Mr. Chairman, that I certainly would not be happy,
4 and I would not like to authorize him. My papers, though they are no different from my reading through for the Premier, they are nothing further at this point.

DEAN LEDERMAN: There is no doubt a range of things that could be made public, but there would have to be a selective discretion exercised.

THE CHAIRMAN: This is a question they might ask as to why some and not others.

PROF. BRADY: Quite.

DEAN LEDERMAN: I do not think anything that was prepared with that understanding should be released without the consent of the author or writer.

THE CHAIRMAN: I think it would be reasonable to discuss some of these questions with the Prime Minister, but in fact the matter does not seem as complicated to me, where we sit, as it is being made out to be. That is to say, we are appointed with very explicit terms of reference and position, but whether the Prime Minister wants to set up a joint committee of the House or whatever he wishes to do is his own matter.

PROF. BRADY: That would be something quite different. After all, as an Advisory Committee, we are substantially in a state of civil servants advising the Prime Minister and there is a

confidential character about our relationship with him. What we say and we report to him he may divulge to the public, but certainly as a Committee we can hardly contemplate that we are doing things to be divulged to the public. We are advising the Prime Minister, that is really our status. The terms on which we are serving on this Committee would have to be altered to make the situation different.

THE CHAIRMAN: There is one matter. I believe the Leader of the Opposition said in the House that he had heard that one member of the Committee had said he did not think of himself as a Conservative advising Conservatives. I wouldn't think any of us thought of that. I don't, as a civil servant, and I am sure you don't as outside people. You are advising the Government, as you are requested to do.

MR. GATHERCOLE: I think that is so, Mr. Chairman. I agree wholeheartedly with you and with what Professor Brady said. I believe, however, it is quite a practical and understandable procedure for the Prime Minister, after discussing the matter with the Chairman of the Committee who perhaps should discuss the matter with the persons concerned, those being individuals who may have submitted reports, to release a selection of reports if he considered that this might promote a better

understanding among the Opposition on some of the problems with which the Government was confronted.

I think this could be done and some released but to a large degree many withheld, and information withheld. I think the Opposition have always understood, and it has been the practice down through the decades, and they understand this. They, of course, press to obtain all the information they can, which is only natural, but they understand that there are things that are going to flow to the Prime Minister and the Government to which they have not access.

THE CHAIRMAN: Well, I think that the Prime Minister is not unduly worried about making these reports available. My feeling in discussing it with him was that he was more concerned about how members of this Committee would feel about their work being released, and whether they would want it public, and whether it was in a form suitable for public consumption and all the rest. I think we shall have to discuss this with him further.

DR. FORSEY: I would think anybody who has produced an individual work ought to be asked, because it is conceivable that if he were expecting it to be published, in some instances he would want to add a sentence here, take out a sentence there. If you are addressing a thing to the Prime Minister, you make certain assumptions that he knows what you

are talking about, and you don't have to spell everything out to him in detail.

THE CHAIRMAN: Surely.

DR. FORSEY: If it is for the public you might want to put some qualifying phrase. I have not any worry about my one little squib in the matter, but some people might be in a different position and I think, just to protect themselves against unnecessary difficulties, they should be consulted, that is all.

THE CHAIRMAN: Now we are two minutes away from taxi time. As far as the cultural committee is concerned, how is your situation for this afternoon, Professor Brady?

PROF. BRADY: Well, we can certainly talk with Mr. Davis, if it is Mr. Davis, because there is plenty to talk about.

THE CHAIRMAN: Your education thing, Paul, I would imagine this would be a good opportunity to look into that.

PROF. FOX: You have not done anything further on that?

THE CHAIRMAN: No, I have not. I have tried to get in touch with him but I have not succeeded.

PROF. BRADY: I wonder, Mr. Chairman, how much time is there in the plenary, because we were contemplating in the cultural relations

committee raising one question in the plenary for discussion, and I had also thought I might utilize this opportunity, with some Ministers present, to ask a question or two as to what their impressions were of the working of the system of collaboration, as it were, with the Federal authorities at conferences; their attitude, as it were, what their views were and their attitude towards Federal-Provincial Conferences.

PROF. FOX: Professor Brady is doing research for his paper.

PROF. BRADY: That is right. It looks like an opportune time to sound out Ministers if they wish to express any views. Would there be time for this sort of thing?

THE CHAIRMAN: I wonder if we should do this between four and five rather than starting with it?

PROF. BRADY: We are meeting again at four?

THE CHAIRMAN: We are meeting at four in plenary.

PROF. CREIGHTON: They will be there?

THE CHAIRMAN: They will be with us. In view of earlier experiences we have had, we might better get right into sub-committees and take up those broader questions at four.

PROF. BRADY: Yes.

THE CHAIRMAN: Would that be agreeable?

DR. FORSEY: Excuse me. When it comes

to making things public I think it should be quite definitely laid down that we do not want what might be described as preliminary reports of sub-committees made public.

For instance, I should have the strongest objection, to be perfectly frank, to publication of the preliminary report we had from the cultural sub-committee; because I think it might, in the absence of certain precisions which seem to be inherent, cause very great difficulties indeed, which could be avoided if we refrained from premature publication.

PROF. BRADY: That was not the intention of the cultural committee to have that sort of thing published.

DR. FORSEY: I am sure it was not.

PROF. BRADY: That was a statement actually that we prepared on the morning prior to the meeting of this general Committee, to indicate to the general Committee the kind of things we were talking about and that we considered important to have discussed.

DR. FORSEY: Yes.

PROF. McIVOR: The fact is there are many of these preliminary papers that are statements either of an individual position or sub-group position, which in no way have become the joint responsibility of the Advisory Committee as a whole.

DR. FORSEY: I think it ought to be made clear that if there is any question of tabling in the Legislature documents from this Committee, discretion should be exercised about preliminary statements.

THE CHAIRMAN: I think so. There should be no fear on that particular anyway.

PROF. MEISEL: Am I right in thinking we should have an opportunity later to discuss this whole question of whether any of our reports will be published or not?

THE CHAIRMAN: Yes, I think we have to discuss it with the Prime Minister then.

DEAN LEDERMAN: That means next month, April.

THE CHAIRMAN: Or some other time if he wished to meet.

PROF. MEISEL: I think we should be very careful about publishing anything. I would like to discuss it with the Prime Minister some time when we have time to go into all the ramifications.

THE CHAIRMAN: I will give you my assurance there will be nothing of this happen without consultation with the Committee.

The taxis were here two minutes ago, and we have our old friend the Supreme Court lurking in the background which has come back to us, and I really think we cannot raise this now. In brief,

Dean Lederman had problems about it.

DEAN LEDERMAN: Do you want to take five minutes at four o'clock?

THE CHAIRMAN: If it were five minutes I would say yes.

5 PROF. CREIGHTON: But it would not be.

THE CHAIRMAN: Perhaps we had better make it five minutes at five to five.

MR. GATHERCOLE: It wouldn't be five, only four.

THE CHAIRMAN: Can you talk about it informally over lunch? Do you think it is going to be difficult to get this through?

DEAN LEDERMAN: No, I don't think so.

THE CHAIRMAN: Does everyone understand that we do not come back here? We are meeting in the Park Plaza this afternoon, and we are off to the French Room again.

--- The meeting adjourned at 12.50 p.m. and resumed at 2.25 p.m. in the French Room at the Park Plaza Hotel; there being present at this time the Hon. the Attorney General, the Hon. the Minister of Education, and the Hon. the Minister of Transport.

THE CHAIRMAN: Gentlemen, I wanted to say a word or two about our proceedings for this afternoon; but first, on behalf of the Committee, I wanted to bid a cordial welcome to the members of the Cabinet who are with us today and to say how

sorry we are that the Prime Minister was not able to attend.

I have some comments to make for the benefit of the members of the Cabinet who are here, about our proceedings and about the work we are undertaking. I think before I come to that, however, I might ask the Attorney General if he has any remarks he wishes to make on behalf of the Prime Minister or other members of the Cabinet. Then I shall go on with the procedural matters.

HON. MR. WISHART: Thank you, Ian and gentlemen. I had not really expected to be asked to say a thing. I came to listen and to learn.

I am delighted to be here, and I am following -- perhaps a little like Peter from afar off -- the work that you are doing. I learned quite recently with great satisfaction I thought, and with approbation to you - I got the report of your work, meetings, the papers you have prepared, and the projects you have in hand and the design for your future.

I would just like to say to you that I am most interested and I know my colleagues are. I think you are certainly moving well, and I know that this is perhaps one of the most interesting and -- I think I should like to say this -- one of the most important areas in which we could be engaged today, from the province's point of view

and from the country's, for our country's future.

I read with interest in the newspaper the report of the similar (I think I may use that adjective) committee that is working in the Province of Quebec. I am looking forward to getting a full report of what is summarized in the newspaper.

You are doing a great work, and all my colleagues are very interested.

I know the Prime Minister, on our way over to London yesterday, was remarking how much he was looking forward to being here and what interest he has in this. It is very close to his heart, the work you are doing. I know he was very regretful this morning when he found himself confined to hospital for, what I can say to you, is a short and not serious thing. He will be out in a day or so, but he is very disappointed he is not here.

THE CHAIRMAN: Thank you very much.

HON. MR. WISHART: Mr. Chairman, I must confess to you that before I got your invitation some weeks ago, I had made an appointment for a little after three this afternoon. I am going to run down and see if I can brief it off and shorten it, but I must keep it and I will get back.

THE CHAIRMAN: Thank you very much. I will say a word or two about the timetable for the afternoon. I have passed about to the

members of the Cabinet Committee the report on the studies we have undertaken and the other work we have in progress.

It has occurred to me on what is in fact the eve of our first anniversary -- because this Committee held its first meeting on March 19, 1965 -- that I might try to look back for a few moments at the origin of this Committee and at some of the problems which we have faced and which I think we have faced in the last few months, and the position I think we should now be in.

Perhaps I am going to stick my neck out too far, for a civil servant, in some of these things, but I will put on my other hat as Chairman of the Advisory Committee and you will all understand my intentions.

We began, I think, to look at Ontario's position in the Confederation debates and thereby to assist in the formulation of a positive position for this province - a position which at the same time would be consistent with the national interest.

The interpretation of what the national interest might be is by no means simple,because, for example, it may well be that arrangements to strengthen the provinces when aggregated, add up to the national interest; although we have been aware at all times that this is not simply an arithmetical process of carving up responsibilities

or carving up issues, but that the total might well add up to more than the parts, and we must be conscious at all times (and we have been I think) that we are dealing not just with Ontario but the contribution that Ontario can make to the nation as a whole.

In that sense we have, I think, throughout felt that positions which we work out must not have regard just for any one province, but for all provincesthat make up part of the federation; although recognizing that all of the provinces have their own special flavour and their own special problems.

We have also had to recognize, I think, that much of the thrust in what has become known as the "Confederation debates" has come from the special events in one province -- the Province of Quebec, where there appear to be a recognition of explicit goals and explicit objectives.

I think we have felt that our task is in fact more difficult, because we are not dealing with the same specific objectives or specific goals for this province as a whole but rather we are trying to do a number of things. We are trying to represent Ontario; through Ontario we are trying to represent English-speaking Canada. We are trying to serve the national interest, and we are trying to deal with the so-called French fact,

and we are trying to do all of these things in producing a position.

Now, we recognize in our work that our task should be to deal with the broad philosophy that might be helpful to the government of the province. In the regular process of the government machinery, there is not, for example, a department of Federal-Provincial affairs, as there are departments dealing with other areas of the jurisdiction.

Perhaps our greatest service may be to evolve a general philosophy. On the other hand, the Committee is under no obligation to have, so to speak, Cabinet solidarity. We are all individuals, and needless to say, there are a variety of individual views that have been expressed on different issues. We do not feel any obligation to produce any necessary unanimity of opinion on particular matters.

We have tried from the outset to avoid the dangers of undertaking overly comprehensive research. I think every Royal Commission, every body of investigation, has faced the problem of trying to carve up the whole field of knowledge, and that that obviously is a never-ending process.

We have had to do certain research. I think principally this has been not to further the body of knowledge, so to speak, but rather to organize our thoughts and equip ourselves to come to some

immediate conclusions.

In the process we have tried to do things, I think we have tried to produce specific recommendations on certain points. As you know, for example, we made a recommendation of an Ontario-Quebec cultural agreement. At the same time we have tried to provide wider, more comprehensive thinking on the philosophical position of Ontario.

I think we have one procedural difficulty. We are not really moving on any particular target in terms of time. We are dealing with a revolving subject, and we have no set time table, so that we have had to avoid any sense of timelessness in our procedure.

I think at this juncture, I am very conscious, on the eve of our anniversary, that we should be,
6 perhaps in a position to come up with some more comprehensive package of recommendations.

That leads up to our meeting with the Ministers and our future meetings with the Ministers. The problems I see here are how the Government can best be guided by the work of our Committee; and how we, in turn, can be guided by the wishes and the concern of the Government and the Cabinet.

There are certain questions which we face and which we have discussed from time to time. How should our work be treated? The Prime Minister, I know, has had some thought in his mind

about whether our work should become part of the public domain or remain part of his own preserve.

I gather from reading Hansard that the Government has had some suggestions made to it from across the House about how these matters are to be discussed in the medium of the Legislature; to what extent they should be part of the Legislative debates, to what extent these thoughts will be worked out in ministerial speeches; where and how would policy decisions on the broad sweep of Confederation be introduced as far as the Government is concerned?

So whereas we do not regard this as part of our responsibility, of course, inevitably there is going to be a two-way process here, and we hope that in addition to providing advice we may be guided on the form, the problems which you will face in your own governmental activity.

Now, coming to our immediate work, we, as you have seen from the list, have ranged rather far and wide, and we have other studies in progress.

We have one study in particular which Professor Brady is undertaking and which we will have, say, later in April, which is an attempt to survey and to bring into focus the various strands and issues that now bear on the Confederation situation. We have that paper to work to as a part of our timetable.

We recognize that Quebec and groups in Quebec have been producing a set of clearly defined attitudes. We recognize that we are now on the eve of some very hard bargaining in the fiscal and economic field for the next five-year financial period.

What is running through my mind as Chairman of this Committee is to ask whether we do not have a responsibility now to try and pass over to the Cabinet a philosophical statement of our attitude to the extent that we can produce a complete package, of opinion on various matters. These are matters which we have dealt with: Federal-Provincial Conferences and how that might be treated; the Supreme Court; the attitude on foreign agreement activity; the monarchy; cultural exchanges; French language in Ontario, the need for constitutional change; the Senate; objectives in economic and fiscal policy; the problem of opting-out and associate statehood.

Now, those are just several questions that I pose that perhaps have seven veils that need to be lifted. I would think, I would hope and I think the Committee would support me in this, that at the end of one year and very shortly now, we would like to be in the position, as it were, to have, if not unanimous views, at least some comprehensive view, and perhaps produce some comprehensive paper which the Committee could say (with all qualifications and

all individual deviations) represented something that the Government could then take -- much as any department produces a policy in its own limited area that it presents to Cabinet -- that the Government might take, and that the Government might then want to examine, to treat and to dispose of in any manner they felt suitable -- in the Legislature, in public speeches, in meetings with other governments, or whatever. That would not be our task to be resolved, but I do feel -- and perhaps civil servants are always a little more sensitive to things said in the Legislature than members of the Government -- I do feel that the issue is being raised repreatedly there about what this Committee is doing.

I see the Prime Minister has made it quite clear that we are advising him, but nonetheless, I think there is a certain psychological sense that I have gathered, and all members of the Committee have gathered from speaking to friends and others in public: what is the Committee doing?

We know what we are doing, we have worked very hard; but I think we would be anxious to give the Government material that, if it is so inclined, it could use in public debate and in public issue.

Now, that is the position I think we have arrived in, and our suggestion, gentlemen, this afternoon is this. Our working arrangements have been to work in three sub-committees --

constitutional, cultural, economic and fiscal. We thought we might break into those committees with individual Ministers, and then resume in a plenary session at four o'clock and have an hour's free-for-all from which you might be able to pinpoint some matter that would help us move on to our target.

The Ministers are free to join the committees of their interest, with one exclusion. The economic and fiscal committee is going to use the time this afternoon to edit a paper which is at the point of wrapping up its work of the past few months, and we would like to carry on with that editorial work; but I expect the other Ministers would be interested in some of the other groups where matters of substance and detail can be dealt with, and I know you can be helpful to the committee in guiding their work.

Before we go into that sub-committee, perhaps there can be other thoughts here that others may wish to raise; and it would be untypical of this Committee if someone did not want to take issue with everything I said.

--- Laughter.

HON. MR. WISHART: Very good sign. I assure you I am going to follow the constitutional committee wherever it sits and whenever it moves; I shall be in there listening.

THE CHAIRMAN: The arrangement is this. We have three sites. We move from the French Room, appropriately, into the Dominion room. I suppose the constitutional committee had better go there. Then we have two suites for the other groups, and we are to resume in the Dominion room at four o'clock, where there will be a cup of tea if anyone needs it.

MR. STEVENSON: Suite No.725 for the cultural people; 728 for the fiscal and economic.

THE CHAIRMAN: Mr. Davis, I am sure, will have an interest in the cultural committee; and Mr. Haskett, I don't know whether you have any preference between cultural and constitutional.

HON. MR. HASKETTE: Aren't we represented in both?

THE CHAIRMAN: You will have some representation in both; you will have your choice of your interest.

How is it again? Constitutional down the hall in the Dominion room; Cultural in 725?

MR. STEVENSON: 728 for the Economic and Fiscal.

THE CHAIRMAN: Mr. Attorney General in what suits your plans.

MR. GATHERCOLE: Mr. Chairman, may I make one suggestion, that even though we are going over this paper, if any of the Ministers wanted to come

MRS. CHAPMAN: The arrangement is this.

We have three a [illegible] We move from the French [illegible]

[illegible]

a suggestion [illegible]

to [illegible] the other [illegible]

[illegible]

if anyone reads it.

[illegible] for the quilting [illegible]

[illegible] for the [illegible]

THE CHAIRMAN: Mrs. [illegible] I am sure, [illegible] have an interest in the quilting [illegible] committee [illegible] the weekend [illegible]

[illegible] Mrs. [illegible]. Then it is my pleasure [illegible]

[illegible]

MR. [illegible]: You will have some [illegible]

[illegible]

[illegible]

hall in the Population Room. Or shall [illegible] in [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] DR. [illegible]: Mr. Chairman, may I make a suggestion, that even though we are going over this paper, if any of the Ministers want to [illegible]

and drop in ---

THE CHAIRMAN: By all means.

MR. GATHERCOLE: -- sit in, is there anything wrong with that?

THE CHAIRMAN: No, they might as well see us at our worst.

HON. MR. DAVIS: In this paper, can you tell us how to get more money?

THE CHAIRMAN: Economic and fiscal.

HON. MR. DAVIS: From Ottawa, to support all our universities?

THE CHAIRMAN: That is really what has been holding us up.

HON. MR. DAVIS: I see.

THE CHAIRMAN: I might say on that, that I suppose in a sense the cultural committee, which has been dealing with broad objectives, has gone in some ways furthest along the road. The other two committees have been dealing more with technical matters, and have had a number of difficulties, although the constitutional committee has established a rather clear position so far.

In the Economic and Fiscal committee we have the problem that within the Government, within our
7 own department, and the Treasury, preparation, of course, is going on for this coming fiscal conference.

We also have Mr. Perry and Prof. McIvor

representative of the Carter Commission and the Smith Committee so they, of course, have divided loyalties there too, you see; and we keep thinking that when these great pieces of work become part of the public domain most of their problems will be solved; but we are finding that the timetable is such that we had better establish some position ourselves.

HON. MR. WISHART: I recognize that you are not bound into part of the public domain and I suppose we are perhaps into that, but do you have any liaison or any touch with the committee that is sort of your opposite number in Quebec? Is this permitted or permissible or have you thought of keeping -- getting their views, not necessarily exchange, but I wondered if this is feasible or permissible?

THE CHAIRMAN: Well, sir, we have not. We have discussed it. Individuals have had numerous private contacts, but as a formal group we have had no meeting with them.

I think perhaps undue modesty hss restrained us. We keep thinking that when we really know what we think, then to go down and meet them head-on.

HON. MR. WISHART: What I was thinking, that you might both work along in your own areas provincially, and then suddenly we might find that we are not going to go ahead but you are going down

different routes.

PROF. MEISEL: I wonder, Mr. Chairman, whether you might make a suggestion here that I mentioned earlier this morning.

I have recently been in Quebec City with a group of students, and among other things we had a paper given by Claude Morin who is the Secretary of this committee as well as being the Deputy Minister in the department responsible for Quebec's flirtations with the rest of the country.

THE CHAIRMAN: That is a joint committee, is it not?

PROF. MEISEL: Yes, but he also happens to be the chief civil servant in the department concerned with these matters. He gave an exceedingly interesting and frank and illuminating talk to our students on the work of his department, the kind of objectives that they have, how they go about their business; and it seems to me that it would be very useful to have him, if he were willing to do this, come and do the same thing for us, for this Committee, including the Ministers and including the Prime Minister if he is free, because I think this gives you a very good insight into the kind of preoccupations that the Quebec people are concerned with.

DR. FORSEY: I have often wondered. I understood one of the difficulties about getting

in touch with our opposite number in Quebec was that it was not one -- in fact there are two, neither of which is really our opposite number. There is the Legislative Committee,as I understand it, and there is also some kind of group of advisers (whether called a "committee" or not) who are expert advisers to the Legislative Committee; and which of these would be anything like our opposite number does not seem to us, as I recall the discussion, very easy to say.

If we talked to the Legislative Committee, we would be talking to people who are obviously in a very different position; if, on the other hand, we talk to people who are merely advisers in some way or other, to a Legislative Committee, again we would be in a rather difficult position.

PROF. McWHINNEY: Is Mr. Morin chairman of the second group?

PROF. MEISEL: Claude Morin is Secretary of the Legislative Committee, but he is really by far the most influential civil servant in Quebec in this area, because he is the Deputy Minister for Mr. Lesage as the Minister of this department.

I think we could ask him in that capacity. The fact that he happens to be Secretary of the Committee is all to the good. We need not worry about the constitution of the Committee then.

DR. FORSEY: I was not referring to what

you said, but what the Minister said.

HON. MR. WISHART: I was just enquiring on exchange.

PROF. MEISEL: There is no equivalent really.

PROF. McWHINNEY: This committee you refer to, Mr. Minister, published in the Globe and Mail two days ago is still actually a third committee.

HON. MR. WISHART: That is what I thought.

PROF. McWHINNEY: This is an economic elite, English-speaking elite committee of 60, and they publish their report; but I think the expert committee advising the Quebec parliamentary group has not yet published anything. It has prepared a 5,000 page report, one understands, but it is not released.

DR. FORSEY: Can I change the phrase to "60 tailors of McGill College Avenue" as it were.

THE CHAIRMAN: I have never understood whether that advisory group is organized in the same degree of formality or whether they are loosely-knit.

PROF. McWHINNEY: I think they are organized very formally, but some of them arrogate a great deal of power and independence to themselves. In other words, some of them have held press conferences by themselves, quite improperly.

PROF. BRADY: Inviting Mr. Morin would be like the Quebec people inviting Mr. Macdonald - in other words an opposite number to Mr. Macdonald.

PROF. McWHINNEY: You have been invited, Ian, haven't you? Didn't you speak at the ---

THE CHAIRMAN: No.

PROF. BRADY: Would be very appropriate to have him. He at least will be able to tell us.

PROF. McWHINNEY: Didn't you speak at McGill in this capacity? I thought McGill invited you and you had made a speech.

PROF. CREIGHTON: It seems to me, again, the first thing we had better do is to find out what we think ourselves. We want to decide about some of these issues, and not listen to somebody else, for a while. I think we ought to make up our own minds and we have not yet.

THE CHAIRMAN: This is what I had in mind in my concluding remarks. Although the Prime Minister has never said this explicitly to me, I had the feeling and it is certainly my own feeling, that as I look back we have had a year now and we should have some package of opinions at this point as members of this Province, to offer.

PROF. FOX: Mr. Chairman, if we were to invite Mr. Morin, this would be something that might be two months ahead of us. I do not think it would hurt us to hear what he had to say. In fact, I think it would add to our knowledge of the total situation, and would be a matter of informing ourselves really about developments,

what the lay of the land is. I cannot really see anything but profit coming out of a visit from someone such as that.

If the Ministers wished to join, wanted to, fine; if they did not, the Committee would merely listen to him. It seems to me to be a very good idea.

PROF. BRADY: Quebec, after all, is part of our problem - its attitude, its policies, and so on; and the more we know about what these policies and attitudes are, the more intelligently it seems to me we can tackle our own thinking and solution of the problems of Confederation. We are not going to do it in isolation.

PROF. McWHINNEY: I would like to meet a civil servant myself. I see only university professors, and they are very colourful but in some respects irresponsible.

PROF. CREIGHTON: Another general description.

PROF. McWHINNEY: I would like to meet Mr.Morin because it seems to me that he has a more continuing approach to the problem and perhaps a more balanced approach. I suspect also he is more pragmatic than the professors. They can take the absolute position because they do not have politically to defend it.

DR. FORSEY: Did you hear something new?

PROF. MEISEL: No, but it was interesting to

hear it from a man who can act on it. We had, for instance Rene Levesque the day before, and it was certainly a more sober version.

DR. FORSEY: But it was a version, was it?

8 PROF. MEISEL: Well, it was his feeling, and I think it was a very lucid statement of the general motives that I think activate the Quebec Government when it comes to these Dominion-Provincial Conferences, when it takes a stand on some of the issues that have come up.

DR. FORSEY: There is an enormous amount of information available on that policy without bothering Mr. Morin.

PROF. CREIGHTON: Exactly. It seems to me that is what we have been having here, almost a surfeit of it.

PROF. CREIGHTON: But what we ought to do is decide ourselves what we think. There is lots of evidence to look for already available. Why get more?

MR. GATHERCOLE: Mr. Morin, I suspect, would be reflecting Mr. Lesage's point of view more than he would be Mr. Levesque's or Mr. Laporte's or two or three others. It is one of the very great problems. I think that opinion in Quebec has not crystallized yet, and no one knows what type of opinion will emerge in Quebec.

THE CHAIRMAN: They have managed to give a very positive appearance but,as you are saying,

George, at certain levels, when we have had discussion with them and dig into certain areas we find there is as much uncertitude as we feel in our own minds.

I am thinking, Don, of our discussion with the group in Quebec about their regional development policy. We have been moving through the convolutions of this for a year now and we discovered they were in exactly the same stage and exactly the same throes and worries.

MR. STEVENSON: They have at least gone to the stage of having announced something.

THE CHAIRMAN: Announced something, but they clearly live through the same worries.

DR. FORSEY: I cannot help feeling also that if Mr. Morin, a civil servant in his position, came here before a group like this, with several Ontario Cabinet Ministers and a parcel of citizens of Ontario around, people connected in some degree with the Government of Ontario, he might be inclined to play his cards much closer to his chest than he does with you people.

PROF. MEISEL: I think if he agreed to come, he would speak pretty freely. If he decided that he could not give the kind of talk that he gave us, I dare say he would not come. He is very busy and he does not want to waste his time any more than he would want to waste ours. So I think he would not come unless he was prepared to talk.

THE CHAIRMAN: He is very frank, you know. When we were on a course at Laval University, I said to him: "How do you find the time to do it?". He said "I don't really have the time but it is my unemployment insurance".

HON. MR. DAVIS: You don't have that problem in the civil service in this jurisdiction.

THE CHAIRMAN: I hope not.

DR. FORSEY: We have so much work, itseems to me, ahead of us, that I would be inclined to say if we have Mr. Morin down here to see us, I suppose we had better make it an extra day and not try to squeeze him into the ordinary business of one day. If we do bring him along, if we are to have a fruitful discussion with him, you will have to give him lots of time and it should not encroach upon the time which we need for our own business.

PROF. CREIGHTON: This package deal which the Chairman is speaking of pretty fast.

THE CHAIRMAN: I think perhaps the Attorney General will want to get to his appointment.

--- The meeting adjourned at 2.55 p.m. and re-assembled at 4.30 p.m.

THE CHAIRMAN: We left this part of the day unspecified as far as our discussion is concerned. There may be matters from the sub-committees that you want to pursue.

There is the matter of the Supreme Court to be tidied up, and the chairman of the Constitutional committee has a very simple suggestion for that, with which I concur.

Perhaps while the Minister is attending to his business, we might settle the Supreme Court matter. Dean Lederman has a proposal which should not involve further discussion. I certainly concur with it. We have talked the thing as much as we have to say about it. Do you want to just ---

DEAN LEDERMAN: The suggestion, Mr. Chairman, is simply this: that the four points in the explanatory memorandum as they were submitted to the full Committee by the Constitutional sub-committee, should be transmitted to the Prime Minister as the agreed position of the Constitutional sub-committee; and along with that should go an explanation from the Chairman that in the full Committee it was considered that point 4 should be dropped.

I think Mr. Seguin's reasons, which prevail in the full Committee, for dropping the fourth point, ought to be explained.

I think both that we simply send the four points with the memorandum through to the Prime Minister; explain that the full Committee was disposed to modify it in certain ways and explain why; and leave it at that and then the whole position is before Mr. Robarts in a pretty concise

way still. But I think Mr. Seguin's position about point 4, which is the substantive thing about point 4, ought to be made, and that the full Committee was disposed to drop point 4.

PROF. CREIGHTON: And make other trifling amendments and consequential amendments.

DEAN LEDERMAN: Yes. I do not suggest we discuss this in substance any more. I think that is a proper way to communicate to the Prime Minister, and it gives him something pretty concise about it.

PROF. CREIGHTON: Gives both positions.

THE CHAIRMAN: Certainly a happy solution as far as I am concerned. If there are no voices raised in objection, I think we should proceed on that basis.

Undoubtedly in our future meetings with the Cabinet Committee, we will be talking about these matters, and this gets the statement on the re cord of our deliberation. Is that agreed?

--- Agreed

PROF. MEISEL: Can I add a footnote? Perhaps when the Chairman conveys this to the Prime Minister, he might say that there were some members of the Plenary Session who disagreed with Mr. Seguin's position, but that we are too amiable to say so.

MR. GATHERCOLE: That is a little unusual.

THE CHAIRMAN: We are nothing if not amiable.

I think we have one Minister still with us, I gather. You have had a very fruitful discussion in the Cultural sub-committee and Mr. Davis, being very much interested in the work of this committee from thebeginning and very helpful to us, in the time that he is here, I think we should take full measure of his presence. He might like to report on what he thought of the sub-committee.

HON. MR. DAVIS: I can report very briefly, Mr. Chairman. They solved all my problems.

I would just say that I think the feeling of the sub-committee, I sensed a great degree of unanimity in subjects they were discussing and perhaps some of the others that the committees are dealing with.

The general feeling was that Ontario should be providing leadership - and we were dealing primarily with what I am very interested in, the field of education -- that we should be providing the leadership in the way we educate French-speaking students in this province.

I think on matters of general principle, we were in very substantial agreement, although we recognized there were certain practical and political (in the broad sense of the word) implications, and that perhaps it would not be that easy to accomplish all these ends.

However, I did observe that I should like

just to say what I was going to discuss with you afterwards, that if you could get the same group of people and isolate them for three or four days somewhere,perhaps with the Minister and one or two officials from the Department with some technical information, that we might be able to come up with something really quite productive. It is difficult in a relatively short period of time to do this, but I found it very helpful. I monopolized most of the conversation, and I apologize for this, but I think I can say that my impression at least was that on the broad basis, Roget, we had very substantial agreement.

MR. SEGUIN: Right.

HON. MR. DAVIS: If anyone has any thoughts they wish to express to me, others, with the members of that sub-committee, just while we are around the table, I would be delighted to hear from you.

PROF. FOX: It might be of interest, Mr. Minister, for you to repeat for the members who were not present, your remarks on the matter of cultural exchanges, since this comes under your Department. I doubt that other members are familiar with what has developed there and what your views are.

HON. MR. DAVIS: Yes. The Government has provided in the budget -- I guess really in the Department of Education we have it as part of

9 what we call our "Miscellaneous Miscellaneous Grants" (I refer to it as my "Missionary and Maintenance Fund") - there has been a sum provided of some $250,000, I think it is, Ray, to initiate a programme of cultural exchange.

We are exploring within the Department just how we might apply these moneys, the thought being that as far as administration is concerned we would perhaps do it through the Arts Council, but in my own feeling it should not be confined to exchanges of drama groups, choirs and what-have-you. I think the Committee felt this too, Paul, that we should endeavour to do something that has some symbolic application.

I told the committee that the Minister of Education of Quebec, with whom we have been discussing the exchange of teachers because we thought this might be helpful - we both came to the conclusion that we do not have any surplus teachers to exchange, and that from a practical standpoint this was almost impossible.

However, I would suggest to this Committee that if you had any ideas, in that really my portion of the government's thinking is the result of this Committee's recommendations, we would be delighted to have them. We would like to get our programme underway as soon as we can, so that if the Committee generally has some thoughts, we are open to suggestion.

Exchange of professors, John, this sort of thing, you know.

PROF. FOX: How about exchanges of students? Did you discuss that at all or is that feasible?

HON. MR. DAVIS: Yes, it is feasible, but actually the governments are doing this to a more limited degree perhaps as part of the Centennial Year programme. We have been doing this for the past two years now, and it will be a larger programme, of course, in 1967. We thought this was one way, but it is something which is already being done. We wanted to do something that would focus some new attention on it if we could, and, as I say, this is one area to be explored, of course.

DR. FORSEY: When you say "students" are you using the term in the sense in which it was used in my young days, to mean university students, or are you using it to cover what we old-fashioned people call the pupils? Nowadays they are apt to include people in kindergarten as students.

HON. MR. DAVIS: We are referring primarily to students in the secondary grades. How is that? Does that define it adequately?

DR. FORSEY: What I call pupils.

HON. MR. DAVIS: Pupils, yes.

PROF. MEISEL: Senior pupils.

HON. MR. DAVIS: They consider themselves students.

PROF. MEISEL: Mr. Chairman, I wonder -- this is probably too late and it may not be a very good idea anyway -- I wonder whether it would be possible to leave some of this money unallocated in the sense that it perhaps should not all be administered by the Council for the Arts.

I can imagine a number of projects that, for instance, we might think up in this Advisory Committee, which would not fall within the narrow terms of reference of special apparatus that is set up and for which the Department of Education may want to make special grants.

HON. MR. DAVIS: No, this could be very easily done. The only thing I would observe is, as Mr. Gathercole well knows, we do not want to leave it unallocated after March 31st, 1967, otherwise the Treasury gets it back again.

PROF. MEISEL: The kind of thing that I have in mind.

HON. MR. DAVIS: I do not mean always do.

MR. GATHERCOLE: Of unexpended.

THE CHAIRMAN: I think if you look into Advisory Committee funds, we had better have a big bash before the end of March.

HON. MR. DAVIS: We will be quite prepared to allocate funds that can be used in the area where the Arts Council would normally have some interest, and then for projects that might emanate

from this group or from our own Department, we could administer these in a different fashion.

THE CHAIRMAN: Mr. Minister, we were talking about the role of this Committee and how you gathered, I think, in our earlier discussion something about our problems of coming to grips with valuable policy advice, infusing this into the Government Councils, getting some feed-back.

I do not know if you had sufficient time to reflect on this as a member of the Government and as a member of this very young Cabinet Committee.

Then there are the questions which have been asked, I should think quite properly, as to what the Committee has been doing on behalf of the Government, and what the results of the Committee have been. I am sure that when the estimates of the Department in which I work go before the House in the next few weeks the funds of the Advisory Committee will be there and there will be further questions asked about our procedure.

Have you any thoughts about the way we are going about our work, such as you have seen, and the way we can perhaps, from your end of things, as more directed to the air of the possible, address ourselves to questions that are really going to come into focus quickly on what you have to deal with or the Government has to deal with?

HON. MR. DAVIS: I would just make one or

two general observations, and I cannot speak for the Government but I can only speak for my own Department from thinking out what would best help, say, the Department of Education.

While I think you would be making general recommendations to the Government, I would think if any of your sub-committees had specific proposals to put, that you do so to the Cabinet Committee, but also directed to the attention of the Minister who might be in a position to say something about it.

In the group that were discussing the cultural aspect earlier, it was suggested that they become more specific in their proposals on the educational matters, as far as I am concerned, because this would then support what position I might be able to take as far as the Government is concerned. There is no substitute, Mr. Chairman, for a specific proposal.

THE CHAIRMAN: Right.

HON. MR. DAVIS: You can deal in generalities, philosophies, but if you can say, "Why don't you do A, B, C and D?" If you can agree to what A, B, C and D might be, then you can come to grips with them.

I do not think your Minister will have much trouble in convincing the House that this group has been very worth while.

THE CHAIRMAN: I didn't know if you felt there was any -- this is a matter for the Government not for us, but as I explained this morning, whether you think that certain questions that were raised recently in the House about the Committee are valid questions or just part of the reasonable Opposition questioning.

HON. MR. DAVIS: I think, Ian, as a fairly new civil servant, you should not be too sensitive to suggestions from the Opposition. I would not let that concern you.

DR. FORSEY: I cannot remember whether any of the Ministers were present this morning when we were discussing some of the possible difficulties arising from the suggestion of Mr.D.C.MacDonald that the material from this Committee should be tabled in the House or placed, as I think the Premier said, in the public domain. Was that when one of the Ministers was present, when we discussed that?

THE CHAIRMAN: No, that was earlier.

PROF. CREIGHTON: In our committee, our constitutinal committee.

DR. FORSEE: I think we discussed it in the main Committee.

PROF. CREIGHTON: Yes, we did.

DR. FORSEY: I felt a little uneasy about some of the terms of the Premier's reply to Mr. MacDonald, because I was not quite sure that

we might not find things getting to the table of the House which were not originally designed for this purpose, and which the authors might wish to re-phrase -- not substantially perhaps but just to guard themselves against misunderstanding.

HON. MR. DAVIS: I do not want to interpret what the Premier has said, and I think really your Chairman might consult with the Chairman to get his views on it.

I could only give you a personal impression, and that is I think there is great merit -- not that you do not want your discussions or your views made public, but I think you would be less inhibited in your discussions and recommendations if they were for the use of the Government.

Now, this is just a personal feeling on my part. It is not that I am interested at all in not having your views made public, but I think really you can perform a more effective task if you know you are doing it for the use of the Cabinet, Prime Minister and so on. That is my personal view, sir.

PROF. CREIGHTON: I think this is what most of us feel about it, Mr. Minister.

HON. MR. DAVIS: I think there are many things we can say amongst ourselves that for obvious reasons - and none of them party-political - we do not want debated in public at this stage.

DR. FORSEY: Or at any rate at this stage are in a particular form.

PROF. MEISEL: Mr. Chairman, I think it would be very unfortunate if the materials that we were working on or even that we want to recommend, became public. On the other hand, I think it is also important that the work of this Committee and the general field or area of the position viz-a-viz the rest of the country should not become a partisan issue.

I wonder whether we should not try to devise some form whereby occasionally some kind of consultation might not take place between members of the Government and some members of the Opposition, or perhaps between members of the Committee , in the Legislature, about the kind of problems that Ontario confronts viz-a-viz Confederation.

It would be unfortunate, I think, if the members of the Opposition came to think that this Committee was a partisan Committee that they ought to shoot at simply because it is something that is somehow connected with the Government and therefore makes an acceptable target.

DR. FORSEY: I should be leery myself of having any member of the Opposition in here to discuss things with us.

MR. GATHERCOLE: I think myself that that rates as circumstances that are a little more tricky

to judge as to when the occasion would be and whether there would be some sequel to it, than one other alternative that I did mention before: namely, I think that by and large there will be from time to time some document which could be prepared for release to all members of the Legislature, just to give them a sample of the work that this Committee is proceeding with. That would include the Leader of the Opposition and also the N.D.P.

In this way I think you have achieved what you would like to do: in other words, to let every member of the House know what is going on at least to a degree. At the same time you do not impair the effectiveness of this Advisory Committee in maintaining a rather free-wheeling discussion and reporting in problems as we have seen them, which will have been channelled directly to the Government and it will be treated confidentially and for their use at their discretion.

DR. FORSEY: There is a little tendency sometimes among some members of the Opposition, as far as I can judge from some of what I was reading today, a little tendency on their part to think that they can enjoy the pleasures of Government without the responsibilities; that they can be on the inside and on the outside at the same time. I think this is a very dubious position.

PROF. CREIGHTON: Was it Mr. Thompson or

Mr. MacDonald who said that the Opposition was a part of government?

DR. FORSEY: Yes, Mr. MacDonald. This is a novel constitutional doctrine to me certainly.

MR. GATHERCOLE: The wish may be father to the thought.

PROF. CREIGHTON: Part of the Legislature, sure; that is a different matter.

THE CHAIRMAN: You made a suggestion as we were talking earlier, John, that perhaps the Committee might pull together something in the nature of an anniversary or annual report, describing some of the issues we have been dealing with and pointing to some of the complexities and dilemmas.

It seems to be a rather sanguine assumption in some sections of the so-called "public" that people should be able to come up with great remedies to solutions, great reforms in these areas, which are of the very substance of our life. This may be warranted in some places, some parts, but I think some of the feeling about the dialogue not being joined, so to speak, might be answered in this way.

PROF. MEISEL: Yes, an annual report might be a very useful thing. We should try it, I think, and see what we get. It may become simply a catalogue of imponderable questions, in which case probably it is not much use.

THE CHAIRMAN: But it might, you see, in terms of discussion from the point of view of English-speaking Canada. I think Professor Creighton's point, which he has made often, is true, that we have not any orderly or thorough statement of examination, I believe, of what the problem is - Confederation looked at through English-speaking eyes.

Having said that, I immediately look around the table and see all kinds of people who have written a great deal about it, and I may be doing them an injustice, but certainly the impression is there that we do not have this.

DEAN LEDERMAN: Dr. Creighton and I were talking about this earlier, and it is true that there has been quite a bit of writing -- and no one person more than Dr. Creighton, and probably what he has written, "Road to Confederation" and so on, is in more popular form, more accessible to the public than most other things; but when one writes in learned journals, one does not reach a very large audience, and I am a little worried. There is some kind of responsibility upon us as individuals (I do not say as members of this Committee), I suppose, to give some leadership to public opinion, to write to newspapers, to make speeches, to do this sort of thing oftener than we have been doing. This is what the people in Quebec are doing; this is

what people like us are not doing. Perhaps this is the problem.

THE CHAIRMAN: I see Dr. Forsey pondering ---

DR. FORSEY: Grinning.

THE CHAIRMAN: --- the word "oftener".

DR. FORSEY: "Less often" would be better.

DEAN LEDERMAN: I think Dr. Forsey may be the exception to the rule.

DR. FORSEY: Being the most bad tempered man on the Committee, explodes oftener.

PROF. SYMONS: Even though, Mr. Chairman, taken over the Committee as a whole, it comes out to a very satisfactory average.

DR. FORSEY: Tends, however, to be too much of a sameness.

PROF. SYMONS: On this point, may I just be quite clear. As long as if we do address ourselves to the public in print or in speech, we make no reference to the Committee and are simply speaking as individuals, members of the Committee should not feel inhibited from this kind of action, and that if they wished to take part in a panel or to discuss some aspect of Confederation, and it is as a private citizen, there is no restriction.

PROF. CREIGHTON: This has come up before, and I think we all agreed about this matter.

THE CHAIRMAN: Yes.

PROF. CREIGHTON: We agreed before, and

Mr. Robarts has said that.

THE CHAIRMAN: Yes, he has.

PROF. MEISEL: I would like to take issue with Dr. Forsey -- and I take my life in my hands -- but I think there is in the parliamentary system of practice a consultation taking place behind Mr. Speaker's chair from time to time. In matters of real crisis, certainly the British Prime Minister has consulted and informed the Leader of the Opposition about certain matters.

DR. FORSEY: Certainly it is only here that files are refused to Privy Councillors.

PROF. MEISEL: I am not sure that this is not an area in which some thought might not be given to the way in which members of the Cabinet might on occasions speak to members of the Opposition. It seems to me that if Ontario sends a delegation to a Dominion-Provincial Conference, it would be most unfortunate if, for reasons of partisan advantage, the position that Ontario took were attacked simply because the Opposition perhaps were not fully informed. It seems to me that there are things that can be done in this area where the Government does inform the responsible members of their Opposition about reasons for its taking certain positions.

DR. FORSEY: I never said anything to the contrary. I was talking about tabling things in

the Legislature.

PROF. MEISEL: I fully agree with that.

DR. FORSEY: In front of the Speaker's chair, not behind the Speaker's chair; formally and publicly, not informally and privately.

PROF. MEISEL: I agree with that.

DR. FORSEY: I entirely agree with what you say, that there may be room for tabling certain
11 things. The key word in what you just said is "thought". What I am afraid of is that in a sudden excess of that amiability which I sometimes think is the curse of our public life at present, people just want to be pleasant and amiable at all costs.

PROF. CREIGHTON: Not much sign of that in Ottawa, certainly.

DR. FORSEY: There was some sign of it in what the Premier said in reply to Mr. MacDonald, and I think it would be better to stop, look and listen to make sure that in a moment of amiability, when the Premier is very amiable, he does not perhaps render more than he means and finds himself in a position where he is in difficulties and uncomfortable.

HON. MR. DAVIS: In other words, the Government are elected to govern, is what you are suggesting.

DR. FORSEY: This does not rule out what Professor Meisel has been saying; it does not rule

out providing the Opposition publicly with certain information; but there may be certain information which it is desirable should not be spread around the table of the House and made available for the wilder speculations of the Toronto Star for example.

HON. MR. DAVIS: I couldn't agree more with you.

PROF. MEISEL: I think if we table anything we should make it a carefully prepared document for the purpose and nothing else.

DR. FORSEY: Yes, exactly.

PROF. MEISEL: Because it acts selectively otherwise. If you table something they think this is all the Committee is doing. If we table an annual report, that is fine.

PROF. BRADY: It might perhaps be possible in the future for the Committee to prepare something that would be made public, table, a general analysis of the working of Confederation today and some of its implications. That, I think, is a possibility; conceivably might have some advantage.

THE CHAIRMAN: We might be able to do that better when we have read your paper.

MR. PERRY: There must be precednts for our sort of operation. What does the Economic Council, for example, do? It is an advisory body and in somewhat the same capacity as this.

THE CHAIRMAN: Yes. No, the interesting

thing about them is, as you know, in the Legislation establishing them they are expressly denied dealing with short term policy matters, and they are dealing with intermediate and long term matters.

MR. PERRY: So no one is interested in it.

THE CHAIRMAN: Whereas we are really right into the short term, aren't we?

MR. GATHERCOLE: But, Mr. Chairman, which inhibition is not imposed on the Ontario Economic Council.

THE CHAIRMAN: No.

MR. PERRY: I was thinking of the Ontario Economic Council.

THE CHAIRMAN: I am sorry.

MR. GATHERCOLE: I thought you were. I was going to mention that.

MR. PERRY: In other words, it is a counterpart advisory body.

THE CHAIRMAN: George, you are a member of the Ontario.

MR. GATHERCOLE: I was going to mention it has developed a sort of pattern of procedure which could be examined to see whether it might be applied here. They consider economic policies and hear submissions and analyses about economic conditions, and have reports prepared, some of which are then re-cast so that they can be released to the members of the Legislature and some days before.

Initially when the Council was established, there were questions such as the Opposition raised recently about this Advisory Committee, asking: "Well, what are we getting for the money?". If there are no reports, there is nothing to show them. Then it is not so easy to explain whether this expenditure of money is justified.

It is surprising how easy the Opposition frequently is satisfied if they get something, even if it is just an illustration or a sample of work upon which the Committee is engaged.

What I had in mind when I said there may be a selected provision of the studies and discussions which aregoing on here, it could be prepared with definite objective of releasing them to the Legislature and to, perhaps, the public.

DR. FORSEY: Is the Ontario Economic Council a statutory body?

MR. GATHERCOLE: I think it is by Order-in-Council but I do not think it is -- is it formed by statute?

MR. FARRELL: I do not think so.

MR. GATHERCOLE: It is established in Order-in-Council and has some prescribed terms of reference.

DR. FORSEY: So are we.

THE CHAIRMAN: So we would ---

MR. PERRY: Does it publish an annual report

to the Legislature, do you know?

THE CHAIRMAN: No, they do not, except as far as estimates are part, are a page in the Department of Economic and Development estimates, which are examined and cross-examined at that time in the House, but they do not have a formal annual report.

PROF. SYMONS: Mr. Chairman, I wonder if it might be helpful if it were not too much trouble, to have a very brief page or page and a half memorandum prepared for our committee, just outlining the procedures followed in these matters by the Ontario Economic Council? It might help us to plan our own procedures.

DR. FORSEY: I think it is very important that the Legislature and the public should have reasonable and proper information about what we are doing, and some sign that they are getting some sort of value for their money.

This is a serious body and not simply the Conservative party in thought, as it were, or, as the Anglican Church has been called, the Conservative party at prayer. On the other hand, I think it has got to be rather carefully worked out, so that you do not just say: "Well, these are nice chaps over there. Let us give them everything they want"; come around us and say, "Here you are boys": because this is not the understanding or basis on which we were appointed.

Various documents have been prepared by people here or by other people for us, which it was understood were for the eye of the Government, and they might have been somewhat differently drafted if they had been prepared for the Legislature or for the general public.

PROF. BRADY: Do you, Mr. Chairman, prepare a report on the work of your sub-division? It is a sub-division of the department, is it not?

THE CHAIRMAN: Yes. Well, we do, again, in the sense that in the estimate speeches it is covered in some detail. We refer to the work of the Committee there.

We should perhaps adjourn in a few minutes. Before we do, while the Minister is still here, we perhaps might return to Confederation and leave procedure.

You, Professor Brady, had raised one issue earlier, and that was about Federal-Provincial Conferences. I do not know if there is time to go into it with any thoroughness.

PROF. BRADY: I was going to raise the question -- I had intended to raise the question earlier and there did not seem to be time when you and your colleagues were with us, Mr. Davis -- about the impression that you formed from your experience in the work of the Federal-Provincial Conferences.

I am trying to discuss in a paper these Conferences as part of the machinery of consultation in the Federal-Provincial structure. I had formed certain impressions on reading the reports of them and so on, but I would have liked to ask a question of you or your colleagues about your impressions from your actual experience.

One feature, for example, of Conferences lately has been the submission to them of rather far-reaching programmes -- Medicare and Pensions and so on -- which was not so characteristic of the earlier Federal-Provincial conferences.

This comes inevitably from the increased role of the Federal Government and the Provincial Governments in positive measures of legislation, welfare and so on.

These programmes are submitted in many cases without any prior -- at least without any official prior consultation. I rather get the impression that they were a bit embarrassing to provincial governments. Perhaps I might ask you what your impression of this is.

HON. MR. DAVIS: Professor Brady, this is nearly as difficult a question to answer as the ones you used to toss at me when you were my
12 lecturer just across the road some years ago. I did not answer too effectively then, I am afraid.

Actually, Mr. Gathercole can perhaps give

you certainly a better impression over the years than I could, in that I have only been attending them for really three years now.

I would never want to be quoted on it, but on one occasion it reminded me very much of a County Council meeting. I can recall we were discussing education, George, I think it was, and we were pressing very hard to have the allotments under the Federal-Provincial training agreement raised. Ontario had been cut back under the formula. One Premier of one province pounded the table and said: "We have got a surplus in our account. Can I use this to build roads instead of schools?". Then the Prime Minister of another province -- and he represents fewer people at that particular Federal-Provincial Conference than I represent in the Legislature -- also pounded the table and reminded me of the Peel County Council, saying: "We need more money for this"; and it went around the circle, with the Prime Minister more or less the Warden of the County.

This was my initial impression, but I think it is fair to state that some provinces come to the meetings with the prime purpose of outlining their own particular provincial objectives, and they do it in such fashion that it becomes immediately available to the press and so on.

I think on occasions, George, one could

fairly state that the Federal Government has come to the Conference with its mind pretty well made up on some rather important issues, and this makes it difficult to really sit down and confer and negotiate.

At the same time, from my experience, they have been very helpful Conferences in some fields, and I think there has been, even in the last year or so, a developing attitude in an attempt towards co-operation.

Maybe I am optimistic about it, and I think really George can give you a much better impression how it has progressed over the years, but I think generally speaking they have been really quite helpful.

The ones I have participated in related to education, university problems and so on, but there is no doubt the Federal Government has come on one or two major issues, with their minds pretty well made up before they arrived.

One thing that is more regretful -- I think provinces in many instances come sort of with their hands out and saying: "How much can you give us to help us with such and such a programme".

George, you have a much better idea of this, in that you have been to many of these for 20 years. I think Mr. Gathercole perhaps at the last Conference I was at that he attended, was probably the senior

person in experience at the Conference. Would this be a fair statement?

MR. GATHERCOLE: I think it is, save for two.

HON. MR. DAVIS: Perhaps Manning.

MR. GATHERCOLE: The Premier of Alberta and his Provincial Auditor, Keith Huckvale.

HON. MR. DAVIS: Perhaps, George, you could give Professor Brady some of your impressions on this.

MR. GATHERCOLE: I think what you say, of course, I concur in, and that has been my experience, I think, that the Federal Government in coming to the Federal-Provincial Conference must have a well thought-out position, and something to put before the Conference itself. Similarly, I think each of the provinces must have a position. They should; if they are going to make, in my opinion, a constructive approach, they must have a well thought-out policy of what stand they will take on the various issues which are going to be or are likely to be discussed at the Conference.

I think it is very helpful for each of the provinces - and I think Ontario has followed this for a great many years - to prepare in advance a statement of the stand that it will take, and this then is made available to the press so that not only the participants at the Conference are informed,

[illegible] conference. Would this be [illegible]?

MR. MARTIN: I think it is, save for [illegible].

HON. [illegible]: [illegible] agreeing.

MR. [illegible]: My [illegible] of Alberta and [illegible] Provincial [illegible] Keith [illegible].

HON. [illegible]: Perhaps [illegible] provincial [illegible] [illegible] this.

MR. [illegible]: I [illegible] [illegible] [illegible] [illegible] [illegible] exceptions. I think that [illegible] Federal-Provincial [illegible] the Federal-Provincial [illegible] have a well thought-out position and [illegible] [illegible] before the world. [illegible] [illegible] [illegible] position. They should [illegible] [illegible] [illegible] [illegible] a well thought-out policy or what stand they will take on the various issues which are going to be or are likely to be discussed at the Conference.

I think it is very helpful for each of the provinces -- and I think Ontario has followed this [illegible] -- any place - to prepare in advance a statement of the stand that it will take. And this [illegible] the press [illegible] [illegible] Conference [illegible]

but also the public at home also know.

It is true that some provinces come forward and ask for more money, and it is in their interest to do so.

Ontario at the Conferences has always been, through the years of my experience, on the defensive. The Premier is never in a very strong position to oppose some redistribution, re-allocation of revenues which would be more helpful to some of the provinces that lagged in economic development or for services which are not financed at a high standard.

Therefore, I walways feel that since the Prime Minister of Ontario finds it difficult to take a strong stand on these matters, he must have a good deal of preparatory work in advance; and also that Ontario has to ensure that the people are well informed of the issues involved, so that the Federal Government is not put under too great a pressure to go so far that maybe the economic development and the growth of the whole of Canada would be arrested.

By and large, these Conferences are of enormous value. They are of enormous value because they do promote better understanding from each of the Provincial Premiers and the Federal Government's point of view. Despite the fact that you never completely convert the Premier of another province to your point of view, at least you do soften the demands and you reach a compromise which perhaps is

in the better interests of the country as a whole than would otherwise be possible.

I don't know whether that is on the main theme of your question or not?

PROF. BRADY: Would the discussion be much better if you had communications beforehand as to the nature of the proposals that were to be made? You mentioned Ontario preparing to consider proposals of the Federal Government. If it does not know the proposals beforehand, it is not going to be, in the given Conference, adequately prepared.

HON. MR. DAVIS: Of course this is where you get into the political aspects.

PROF. BRADY: Yes, quite.

HON. MR. DAVIS: Any of these proposals considered or programmes probably had some political significance to the Federal Government.

PROF. BRADY: Because it involved spending money and the electorate.

HON. MR. DAVIS: That is right, and I think in some instances we cannot complain too much if they come to a Conference without spelling out all their proposals in advance, in that they obviously want to have some political impact. I mean, this is politics and you have to expect some of this.

MR. GATHERCOLE: Besides that, Mr. Chairman, if I might just add this further thought, that since these discussions are of a continuing nature, all

the Provincial Premiers can anticipate quite well in advance.

PROF. CREIGHTON: And do.

MR. GATHERCOLE: And do anticipate the position that each of the provinces and the Federal Government may take. There may be modifications of it in various ways, but I think that with the development of staffs in most of the provinces, if not all of the provinces now, and concentrating and engaged with areas of Federal-Provincial relations, the Provincial Premiers and the Federal authorities, of course, the Ministers are quite well informed and capable of anticipating what is going to arise at the conference.

It is not often there are many surprises. In the old days when you had a Conference every four or five years, it was different, but aside from the periodic Conferences, Federal-Provincial Conferences of the Prime Ministers which are quite frequent now, there is a good deal of interchange of information.

This Federal-Provincial Continuing Committee on Fiscal and Economic Matters is meeting either in Ottawa, collectively as a group, or there is quite an interchange of information between the members of that Committee.

So there is no reason in the world why any Provincial Premier or the Prime Minister of Canada

should not be well informed of what might be proposed at the Conference, with very few exceptions.

HON. MR. DAVIS: Very few surprises.

MR. GATHERCOLE: Right.

HON. MR. DAVIS: I think in fairness, the public sometimes gets the impression that we do nothing but disagree at these Conferences. You only hear about the areas where there is disagreement; you do not hear too much about the areas where we have actually been able to constructively solve some problems. This is true in many areas of public endeavour.

THE CHAIRMAN: I think we probably might adjourn at this time. Thank you very much,
13 Mr. Minister, for staying throughout the afternoon, and will go back now and book the Delawanna Inn for a convenient date.

HON. MR. DAVIS: It was just a thought.

THE CHAIRMAN: Thank you, very much.

PROF. MEISEL: Our next meeting is not the third Friday?

THE CHAIRMAN: The 23rd.

--- The meeting concluded at 5.15 p.m.

[illegible] Cultural Sub Cee &
Dept of Ed. officials re teaching 7n
[illegible]

[illegible] Urgent memo on Cultural Exchg
[illegible]

[illegible] Cult Exchg
[illegible]

[illegible] (63)

[illegible] night issue Annual Rept (68)